JFK Assassination System Date: 7/7/2015

Identification Form

Agency Information

AGENCY : SSCIA
RECORD NUMBER : 157-10014-10121

RECORD SERIES : MISCELLANEOUS RECORDS OF THE CHURCH COMMITTTEE

AGENCY FILE NUMBER : 07-M-27

Document Information

ORIGINATOR : SSCIA
FROM :
TO :

TITLE :

DATE : 03/09/1976
PAGES : 147

SUBJECTS :
SSCSGO, METHODOLOGY
COMMITTEE BUSINESS

DOCUMENT TYPE : TRANSCRIPT
CLASSIFICATION : Declassified
RESTRICTIONS : 1B; 1C
CURRENT STATUS : Redact
DATE OF LAST REVIEW : 03/22/2000

OPENING CRITERIA :

COMMENTS : CCBOX 324

JFK ASSASSINATION SYSTEM
IDENTIFICATION FORM

AGENCY INFORMATION

AGENCY : SSCIA
RECORD NUMBER : 157-10014-10121
RECORDS SERIES : MISCELLANEOUS RECORDS OF THE CHURCH COMMITTTEE
AGENCY FILE NUMBER : 07-M-27

DOCUMENT INFORMATION

ORIGINATOR : SSCIA
FROM :
TO :
TITLE :
DATE : 03/09/76
PAGES : 147
SUBJECTS : SSCSGO, METHODOLOGY

COMMITTEE BUSINESS

DOCUMENT TYPE : TRANSCRIPT
CLASSIFICATION : TOP SECRET
RESTRICTIONS : REFERRED
CURRENT STATUS : POSTPONED IN FULL
DATE OF LAST REVIEW : 01/05/99
OPENING CRITERIA :
COMMENTS : CCBOX 324

[R] - ITEM IS RESTRICTED

TOP SECRET

NATIONAL SECURITY INFORMATION
Unauthorized Disclosure Subject to Criminal Sanctions

Vol. 2 of 3

Kubow 10 mar

R2784

The United States Senate

Report of Proceedings

Hearing held before

Senate SElect Committee to Study Governmental Operations with Respect to Intelligence Activities

324-1

Tuesday, March 9, 1976

Washington, D.C.

(Stenotype Tape and Waste turned over to the Committee for destruction)

WARD & PAUL
410 FIRST STREET, S. E.
WASHINGTON, D. C. 20003
(202) 544-6000

TOP SECRET

INTELLIGENCE INVESTIGATION

- - -

Foreign & Military Subcommittee Meeting

- - -

Tuesday, March 9, 1976

- - -

United States Senate,
Select Committee to Study Governmental
Operations with Respect to
Intelligence Activities,
Washington, D. C.

The Committee met, pursuant to notice, at 10:30 o'clock a.m., in Room S-407, the Capitol, Senator Walter D. Huddleston (Chairman of the Subcommittee) presiding.

Present: Senators Huddleston, presiding, Hart of Colorado, and Mathias.

Also present: William Miller, Staff Director; Joseph diGenova, Charles Kirbow, Elliot Maxwell, Elizabeth Culbreth, Jan Orloff, William Bader, Lynn Davis, Al Quanbeck, Charles Lombard, Rick Inderfurth, Bob Kelley, Greg Treverton, Jim Johnston, and Britt Snider, Professional Staff Members.

TOP SECRET

P R O C E E D I N G S

Senator Huddleston. Let's come to order.

Mr. Aaron. The agenda today is to proceed with the DCI section and in addition we would like to get the Subcommittee's if you will substantive approval of the paper on the production of intelligence so that it might go to the Agency and we could go through the process of clearing its details.

I don't know which of those you wish to take up first but --

Mr. Kirbow. We should really take up the paper first because it already went out this morning.

Mr. Aaron. Well, they are reading it but we have not negotiated with them yet.

Senator Huddleston. Any comment on that paper?

Mr. Miller. Which paper?

Senator Huddleston. The production of intelligence.

Mr. Aaron. It is in the larger book.

Mr. Kirbow. Senator, I have some comments but I defer to the Senators if they have some comments first.

Mr. Aaron. It's at Tab III, C6.

Senator Huddleston. Charley, go ahead.

Mr. Kirbow. Thank you.

The concern that has been expressed by the senior witnesses from the Agency and other parts of the community not only before this Committee but as a matter of record for

TOP SECRET

the Senators. I'm sure they know that the big fight in the House last year was to avoid the excruciating details on budget figures and I think we had kind of discussed perhaps publishing 3 or 4 major features. I'd like to point out that in this particular document, such great detail as that portion of the CIA, the DDI which produces intelligence, we speak of an authorized project to $70.9 million with 2,269 employees, exact percentage of the Agency's budget and the exact percentage of the personnel. That one page of this document is probably the most classified single compilation.

Senator Huddleston. What page is that?

Mr. Kirbow. Page 3.

Senator Huddleston. Of course it's out of the Agency. I would assume they would have some comment on it.

Mr. Aaron. The point was not, the view was not to produce these precise numbers but A, to have them for the Subcommittee so that they could understand them and much as in the case of the DCI's original paper to expect that these things will be modified and to lay the basis for an appropriate discussion with them as to how one might modify it and yet capture the essence of the argument, and we'll just see how far that goes in trying to reach --

Certainly we have no intention of --

Senator Huddleston. Could we say this Department represents a substantial expenditure with a large number of

TOP SECRET

employees?

Mr. Kirbow. Well if I could tell you what my position on it is, in speaking to Beth Bloomfield last night I specifically asked her -- well, she says that's to give them something out there to take out so that we'll have enough left in here that would be a worthwhile document at the end.

And I think that if we are kidding ourselves that we have either the time or -- and we should not have the inclination in my opinion to waste the time of the people at the Agency or anything by "putting in things which will give Mr. Boldin something to gnaw on so he won't bother the rest of the thing," I just didn't think that we were going to get into that kind of dealing with the Agency people. I thought we were going to be forthright in what we thought we should put in and what we would put in a document like this because the whole production of intelligence thing or the whole theme of the paper is way this inadequate attention given to the analytical portion of production.

And if we are doing this and sending it out there in this classified form full well knowing at the outset -- she says, well, that's not even material. If they want to take it out, just take it out.

Well, if it's not material, I would hope that we're not wasting both our times -- we've read about 10,000 words in the last month.

TOP SECRET

Senator Huddleston. I think it's probably material to also to have a firmer grasp when we start discussing and defending the report maybe, even to the extent of having specific figures.

I think it's highly unlikely that they will let that stay in there and we'll probably have to modify it. I see your point in a way that we might save ourselves time by scaling it down to begin with to what we think will be acceptable, but on the other hand we may not guess right.

Mr. Kirbow. Well, for the record then, Senator, I do have exception to this type writing where we deliberately beef it up with known classified information full well knowing that it's going to be taken out and not get to the point that we are trying to make. But I won't dwell on it any further.

Senator Huddleston. Do you have any comment on that aspect, Senator Hart?

Senator Hart. No.

Senator Huddleston. All right, that one's ready to go.

Mr. Aaron. Thank you.

Now we left off yesterday on page 25. We had discussed two oral proposals by way of recommendations. The first was to set a tone for the DCI which was rejected and the second was to confirm the new community wide deputy for the DCI to have him subject to Senate confirmation to establish him as, in effect, the first deputy of the DCI, the man who would succeed in his place.

TOP SECRET

We also discussed briefly the recommendation number 16 and we agreed that we would make some change in the language relating to what in effect is the re-establishment of the board of national estimates to make clear that they weren't there just for the purpose of endorsing estimates but from the standpoint that they are there for the purpose of reviewing them.

So the next recommendation is recommendation 17, and it is long and complicated. Essentially what the recommendation does is spell out more precisely what the DCI's responsibilities will be for the overall allocation of resources and coordination of the community's activities apart from the production of finished intelligence, which is the purpose of recommendation 16.

Now what it does, the first paragraph summarizes the essential responsibilities along the lines of the President's Executive Order.

Now it is slightly different from the Executive Order in the following sense. The Executive Order establishes an NSC Committee, gives the Committee the responsibility of preparing a national intelligence budget, makes the DCI the Chairman of that Committee, and gives the DCI in his person, if you will, the responsibility for presenting that budget to the President

Now we sort of cut through that somewhat complicated and not entirely clear allocation of authority to the DCI by simply

TOP SECRET

saying he is responsible for preparing the community's budget, and he has this Committee for this purpose in trying to place responsibility squarely on him to do that.

Now this would not mean, however, that the Secretary of Defense be senior to him in the cabinet. I mean the National Security Council could not make a reclama and could not go over his head.

That situation will still exist and this Committee is in fact a committee of the National Security Council, so there is another layer at which inter-Agency disputes, if they continue beyond the level of the Committee on Foreign Intelligence, where they could be resolved.

Now the first -- it also designates him as responsible for preparing the budget and providing guidance for operations programs in general terms and puts him in as chairman of the appropriate NSC committee, and then we reference the CFI and then authorize the following specific responsibilities.

First of all, the establishment of national intelligence requirements for the entire community and it empowers him to draw upon representatives of the members of the intelligence community to help him in the task of establishing these requiremen

Now this is an increase in his authority from his current posture. He has now the authority to issue guidance in the preparation of requirements but he can't really say do this or do that. These are the things we want.

Now as a practical matter, I think it's fair to say that he goes pretty far in getting his way at the present time, but on some of these requirements on a national basis, this would give him the clear authority to ask them to do things.

Now his requirements, the level of detail and so forth, would obviously be something that would have to be negotiated out in the course of his work.

Now that is the recommendation of the first paragraph and paragraph A.

I might just say it also gives the DCI in connection with the requirements process, it refers here to the fact that he may determine the success of various agencies in fulfilling and in fact what the paragraph sets up is a system whereby the DCI can establish requirements and then through the budget process and in the process of evaluating requirements make some estimate of how well the community is doing and either add to the budgets or take away in certain areas and so forth.

This provides some of the real system as opposed to a paper system which he has had in the past.

Paragraph B describes the preparation of the national intelligence budget and points out that he should prepare this budget, present it to the President and to the Congress who would make some reference here to the language in the President's Executive Order in this regard.

It makes the further point that the definition of the

elements to be included within a national intelligence budget -- in other words, what parts of the community would fit into that, where you draw the line between technical and national intelligence, between departmental and national intelligence.

This definition would be established by the Congress in consultation with the Executive Branch.

It further points out that he should be involved early in the process of preparing budgets in the budget cycle, and then it makes some hortatory kind of statements about how he should try to consider trade-offs between programs and between collection and production and so forth.

Senator Huddleston. I would suggest there that we use another word besides trade-off. While it is common for us to use it up here in committee work, I don't think it conveys the best connotation to the public.

What we're saying is that he balances out or apportions resources, whatever.

Mr. Aaron. Now I think the final sentence is this important one, and the Senators should note this. The proposal and perhaps this ought to be made somewhat more clear than it is now as to who will do this, but the authority -- I'm sorry, it is clear. But the authority of the DCI to reprogram funds within the intelligence budget should be limited by statute. The President, in Executive Order gives to the Committee on Foreign Intelligence not only the authority to prepare the

national intelligence budget, but to reprogram moneys within that budget.

Now our estimate is that that budget would be on the order of $3, 4, perhaps up to $5 billion, depending on what is included in it, and I asked the White House, the NSC member of that Committee what the purpose of that particular provision was, and I asked him specifically did this mean that you would be able to, as in the case of Angola, reprogram money away from some other part of the budget, NSA, NRO, some other major program, and put it into the covert military, para-military action program?

And he said yes, that is the reason that he is given a sort of broad authority to reprogram money.

Senator Huddleston. Well, they were doing some of that, weren't they?

Mr. Aaron. To some extent I believe that's true, but I personally don't know what that extent was.

Now to the extent we will see later that we place some or make some recommendations concerning limitations on the authority to draw upon different funds and to replenish certain funds for the purposes of covert action, this squares with that proposal by saying that there should be by statute certain limitations on the reprogramming of funds.

We're not saying [illegible] those ought to be there really thinking that the oversight committees would have to work out.

TOP SECRET

Now the next paragraph. C --

Mr. Kirbow. Could we take these one at a time because these are rather critical?

Mr. Chairman, one of the things that came before this Committee when I guess it was Mr. Colby testifying and at each meeting that Mr. Miller and the staff had with the people from the White House and the CIA when we were preparing the oversight bill, we heard many good reasons why we should not deprive the DCI of this ability to sign certifying out of certain funds and being able to expend them without a great big red tape machine to hinder that type of operation.

If, as David says, his recommendation here is to prevent reprogramming, except within very narrowly defined statutory limits, is a first step toward restricting that further activity. I would like to except on this and have it discussed before the Full Committee, or in the absence of that, or connected with it, have the record that we have that shows us that we should restrict by legislation here --

Senator Huddleston. What is the major thrust there? Is it to in fact limit or restrict or is it to actually have it defined and specified in the statute as to what circumstances might prevail?

Mr. Aaron. The thrust here is as follows. The DCI can now reprogram money within his own agency to some extent. That budget, depending on the parts he can reprogram. I don't

believe he can reprogram it within about $750 million of his own appropriation.

Senator Huddleston. We can't take something out of the NSA now and put it over?

Mr. Aaron. No, we can't do that. But in his new responsibilities as DCI for preparing the budget of the entire national intelligence program, he will now be in a position to reprogram the entire budget and therefore it's a much larger kind of flexibility.

Now the thrust of this particular proposal is not really aimed, this particular one -- later one we do have one which does place some constraints and the purpose is to make it clear where the money comes from and where it's going to go to make it clear to the Congress at least. But this particular one simply says that because this is a much wider reprogramming flexibility, that it ought to be subject to certain kinds of definitions and consider the limitations so that the Congress knows what is happening to the moneys that it appropriates for particular purposes.

Senator Huddleston. Well, for this particular paragraph, then, would define or specify, suffice the word limited, or not?

Mr. Aaron. It should be defined. That's correct.

Mr. Kirbow. I do wish to point out, Mr. Chairman, that that is a departure from the standard reprogramming process that

has been adopted in the Senate over the last 10 or 15 years, for instance, with the Committee on Armed Services.

Senator Huddleston. For other departments?

Mr. Kirbow. Where there is an authorizing and an appropriations type action in the Congress, as Senator Hart will know from his experience on that committee, if they wish to reprogram missile money over to aircraft, for instance, it has to be approved by all four of those committees, both Arms Services and both appropriations committees with the exact transfer of the amounts of money and the justifications given therefore.

My concern is not that the Congress should not have a control of this or that you would make it so rigid by making recommendations that leave the oversight committee and the appropriations committee no flexibility to do this. And I would think that unless we have a very good record on this, we should recommend that this should be a matter that the oversight committee in its new rule gives good consideration to.

Mr. Miller. The oversight committees and the appropriations committees would have flexibility. Every appropriations act is a statute, after all.

Mr. Kirbow. They certainly would unless you restrict them by statute.

Senator Huddleston. But we are suggesting a statute which the new oversight committee that has passed,

TOP SECRET

so far would have legislative authority over. So we're really just recommending here that in this statute they provide the framework under which these kinds of reprogramming can be done in view of the fact that we are extending the DCI from his own little bailiwick to the entire intelligence community.

Mr. Kirbow. If that's the intent of the committee, I have no reservations about it.

Senator Huddleston. I don't think the military people would object to that kind of language. They'd like to have some definite framework for a man to reach into his budget.

Mr. Kirbow. I think all the various agencies would like to have that kind of protection.

Senator Huddleston. Okay.

Mr. Davis. Number C, the DCI should have responsibility to review all intelligence activities and intelligence resource allocations, including tactical military intelligence in order to carry out his more general responsibilities.

We've used the word "review" very carefully here. This is not a responsibility to direct those operations but simply to be able to look at the whole in order to sort of balance it out.

We're not saying that he's taking over responsibility from the military commanders. If you read the Executive Order the language is different and it says that the CFI and the DCI will not have responsibility for tactical military

intelligence. But then it uses the word guidance. That is that the DCI will provide guidance on the relationship between the two and that is ambiguous to us and so we wanted to make sure that the DCI would be able to look at the whole but not have responsibility for directing the tactical military intelligence programs.

Mr. diGenova. The original drafting of that Section C, I think it's actually clearer than the way it's drafted now. The original draft says, while the DCI shall not have responsibil for directing tactical military operations, the DCI shall have responsibility to review all intelligence activities, et cetera.

I think the original one is better because it makes it clearer what you are trying to say.

Mr. Kirbow. If you're going to use that for Senate, you have to say tactical military intelligence operations.

Mr. diGenova. Yes. There's a word missing from the original formulation.

Mr. Davis. The reason it was taken out is because it was a negative and there was the thought that this is saying what he does do and leaving what he doesn't do not to be said. It's up to the Committee how you want to --

Mr. diGenova. But you don't want to do the same thing the President did and leave the thing ambiguous.

Mr. Davis. I have no problem making that first statement.

Senator Huddleston. If you want to be positive, you can

say while the responsibility for directing tactical military operations resides with whoever it is, the DCI still shall have the review.

Mr. Davis. Well, review is, I think, the right word because he's going to try to look at the whole.

Senator Huddleston. I think Joe makes a point there because that could lead to some misinterpretation.

Mr. Davis. Section D goes on to ask the Director of Central Intelligence to establish a staff to support him in these responsibilities and to draw a staff as widely and from the best talent that he can.

Senator Hart. Is this another staff or is this the staff that is in being?

Mr. Davis. This is the staff in being. He has always had people to help him in this role.

Senator Hart. Why do we have to authorize him to do something he's already doing?

Mr. Davis. We don't want him not to do that. I mean we want him to have a special staff to carry out these responsibilities.

Senator Huddleston. This is about the second or third time we've referred to him having the staff.

Senator Mathias. Why don't you say maintain instead of establish?

Senator Hart. Why if he doesn't want the staff?

Mr. Davis. He's authorized. He doesn't have to.

Mr. Kirbow. He's authorized to have a staff under the President's executive order or in any other normal course of business.

This appears to be dipping down below the kind of statutory authority position that you have and telling them how to structure all of the organizations underneath.

That's my objection to that particular aspect of the recommendation. I kind of side with Senator Hart. He has the authority to do his business and I don't think anyone in their wildest imagination would think that the Congressional record or history in this would establish that he's supposed to do it by himself.

Senator Hart. You took the words right out of my mouth.

Mr. Kirbow. And I once more say this is one of the recommendations that we recommend be taken out.

Senator Hart. Who's we?

Mr. Kirbow. The staff had had discussions at the staff level where several recommendations that things like this be taken out for that very reason be considered, and I think it is inadvertent that they are back in the redraft.

Senator Huddleston. You have no strong feeling about that? Let's omit that paragraph.

Senator Hart. In that connection, and I hate to do this, but I'd like to back up because David sailed right by this --

page 24, recommendation 16. The Director also would be empowered to establish a board of senior advisors.

Now who is that? Who is that board?

Mr. Davis. This would be something similar to the board of national estimates.

Senator Hart. Is he empowered to do that now?

Mr. Aaron. He is not empowered to do that now because it was abolished on him.

Mr. Davis. But he could do it.

Mr. Aaron. I don't think that's correct.

Mr. Maxwell. He abolished it. It was not abolished on him.

Senator Hart. Could Mr. Bush reconstitute it if he wants?

Mr. Bader. Senator, this is in a way a call to the DCI. It is based, I think, on really extensive testimony we have taken here about the utility of the board of national estimates.

Senator Huddleston. It may be more a recommendation than an authorization.

Mr. Davis. At the same time we didn't want to tell him he had to because it is more or less up to him because if he doesn't want to run his shop that way --

Senator Hart. Who are these people?

Mr. Davis. In the past they have been former senior

officials and academics who would serve to review the estimates and comment on them for the director.

Senator Hart. Do they perform any function? Have they in the past?

Mr. Miller. Oh, yes. Llewelyn Thompson, for example. There are senior diplomats, senior military men from the outside, people of distinction, people who have seen a lot and have something to contribute.

Senator Hart. Have they had something to contribute?

Mr. Miller. Yes.

Mr. Aaron. There are two functions they can perform. More or less, they can bring their wisdom to bear on the product.

Senator Hart. I want to know what they have done in the past.

Mr. Miller. Soviet matters. Llewelyn Thompson's roles, for example.

Mr. Aaron. And the second thing they have done was to provide some senior support for the DCI and the judgements he is making.

End 1A b 1B

Now the extent to which that support has been translated into horsepower is unclear, except it was sufficiently strong that it was of concern to the previous administration and was one of the reasons that the board among others was dis-established.

Senator Hart. Have they prevented any problems in the past that we know of?

Mr. Inderfurth. I think that's in relation to helping to insulate the DCI from pressures to modify him. In the past, the board of national estimates insulated the DCI from pressures.

Senator Hart. Chile, Angola, all these cases where the DCI comes in and says we don't really want to do that but the President made us, does he bring in the senior advisor to the President and say, Llewelyn Thompson doesn't want us to, either.

Mr. Lombard. I think part of the problem here, Senator, is that the office of estimates was created under the Eisenhower Administration and fitted very well into the formalistic way in which foreign policy was evolved during that administration. Perhaps as a matter of fact it's been criticized as being overly formalistic and the board of estimates was viewed as being somewhat too long-range and somewhat other world and not geared to what the President perceived as being his day to day needs on estimates.

Now I don't know where the equities lie in this thing, but it seems as though these insitutions have changed according to individual Presidents.

So really, beginning with the Kennedy administration, you had the decline of the office of national estimates because it no longer seemed to fit the fabric.

Mr. Aaron. I'm not sure that's really a fair picture of the history of the board. Perhaps you could tell us since

you were associated with it. [illegible]

Mr. Kirbow. I want to talk about the testimony that was given before the committee on this from two of the former DCIs. Mr. Colby, at both the breakfast briefings he gave and in testimony, favored the use of individual intelligence offices around in these various agencies, originating estimates and everything else; whereas Mr. Helms, when he testified here, says I really don't know how that system is working right now. I didn't favor it when Mr. Colby established it, and I had the other system and it worked well for me.

So I think here again you are talking about a man's staffing requirements as they suit the particular times and the individual as to how he wants to run the intelligence community and what apparently suited Mr. Helms fine didn't suit Mr. Colby and he used a different system which he says works great. And I say that that is, again, a step down thing. Unless you want to encourage him to do it in a recommendation and not mandate that he do it, it kind of makes him run his business the way you want it run and to no apparent abuse problems or anything like that.

Senator Hart. Well, my only thought here is that some future oversight committee or select committee is going to be trying to pinpoint responsibility, and there are so many boards and committees and rocks to hide behind that a DCI has or a President or anybody has that --

TOP SECRET

So again, my intent here is not to be a know-nothing. It just to keep the structure as clean as possible to identify responsibility. That's all. And if this is important to do, let's do it.

Mr. Bader. The record, Senator, and I can only speak from personal experience with the board of national estimates -- I certainly know of at least four estimates with which I had a part of which the board's role was very important in shielding both the DCI and indeed the analyst from the ravages in two cases of the military who felt very strongly that the continuation of our bases in the Azores was much more important than say some hard political realities about the future of Portugese Africa.

And I could cite other cases where this kind of insulating function was enormously important. It had a great deal to do with the experience, the background and the very presence of some of these board members.

They also play a role as the chairman of the coordinating sessions of these national estimates. There's not just an advisory board that sits quite far from the process. Each national intelligence estimate, one of these board members becomes the chairman.

So they do play a very active role in the preparation.

Mr. Aaron. I might mention that in this connection your concern about the accountability problem, which I think is a

fair one. We have testimony that Helms' disposition on this was very clear. When he signed the estimate it was his estimate and it really wasn't the board's estimate.

Mr. Maxwell. Perhaps it might be useful because I think it is clear that he is empowered to do it. Two, if the committee desires to make clear that as a recommendation, on the basis of the committee's examination of their record that this is a desirable thing rather than saying that it would be empowered by statute, because he does have that power.

Mr. Kirbow. Is it the desire of the Committee though, to change the current system which the present director has not seen fit to change yet, which he has full authority to change if he wishes to do so and which the previous DCI established and developed into a working mechanism?

Mr. Miller. The records show that the function of the board had been official results. Then it seems to me we should so state that it is a desirable structure.

Mr. Kirbow. I had one difference with Bill. I don't know that it is desirable to insulate the DCI from the opinions of the respective military departments if they have a vested interest in the outcome of the decision being rendered.

Mr. Miller. The board has distinguished members from the military.

Mr. Kirbow. Then I don't know how it can be used to isolate.

Mr. Miller. Insulate the political pressure. That's the point. Not the point of view of opinion.

Senator Hart. Mr. Chairman, I move that this paragraph stay in, that we move on.

Senator Huddleston. Yes, I think we discussed that thoroughly yesterday, as a matter of fact.

Mr. Aaron. On E, this is the clause which, in effect, makes clear that there is a definite limit to the DCI's authority and the limit being the conduct of warfare, at which time there should be a clear system and process whereby these activities of the intelligence community over which he has responsibility in some general sense here for budget and so forth, that these basic activities come under the Secretary of Defense. It's simply recognizing the fact that we really have two problems. On the one hand, the conduct of intelligence in what is essentially peacetime and the conduct of intelligence in wartime.

Mr. Inderfurth. David, could we get some examples of what high tension means?

Mr. Kirbow. We recommended that that come out. Everyone had agreed on that and I think it was put back in. It's something that you can't define. The Secretary of Defense may feel there's very high tension but the DCI may not be willing to give up his control at that time and you wind up with a wrestling match.

Senator Hart. But there's a phrase of art here national

emergency maybe?

Mr. Aaron. Well, I think the way we came on it was to simply say if you have the process for a time of war, the President may exercise it, and he may exercise it if he feels it's a crisis.

The point was just to have a process and have it understood what happens.

Mr. diGenova. Is it good to have a system that is operating all right in peacetime and then when you come to the time you really need, you give it to someone else to run?

Mr. Aaron. Well, the requirements change in time of war.

Mr. Quanbeck. The collection would become almost completely operational. The sites would be dedicated to opeational purposes and there'd be no purpose to have direction from the DCI.

In that case it would be a supporting military operation. Similarly, the new satellite systems would be used to support ongoing operations.

Mr. diGenova. In other words, you're saying there wouldn't be very many national intelligence needs.

Mr. Quanbeck. Well, economic intelligence would be relatively unimportant. Verification of arms control agreements would not be a matter of concern.

Mr. diGenova. You're talking about the use of hardware.

Mr. Quanbeck. Yes.

Mr. Kirbow. There's no difference of opinion between the former DCI's -- I don't know Mr. Bush's position -- or the former Secretaries of Defense. Everyone concedes that the control of intelligence should go for Defense's purposes in time of war, the principal control.

Mr. Davis. The point is, too, the argument in the past has been the Secretary of Defense needs the control he has had in order to prepare for war and now you're saying the DCI's going to do more but you don't want to upset the military commanders. And this is a way of saying that we understand that in wartime it is going to go back. It is more symbolic.

Mr. Kirbow. One of the recommendations in the military area we'll come to later is on this same subject with the bulk of the work I guess on the subject being done by that group.

Mr. Davis. This also happens with the clandestine service today. In war the clandestine service comes under the military commander in the field.

Mr. Aaron. There are some arrangements of this character because of the expanded authority of the DCI that is granted both in the order and our proposed statute, particularly in the area of requirements.

It's important to have this caveat, if you will.

Now recommendation 11 really suggests that the oversight

TOP SECRET

committee look at carrying the budget process a step further and instead of appropriating or authorizing the appropriation funds to the different departments for intelligence purposes, that in fact they are authorized to the DCI who would then parcel them out, and it doesn't come down hard to say that this ought to be done but that this is the next logical step in this process and it is something for the oversight committee's agenda.

Now number 19 --

Mr. Kirbow. I would like to except on that until such time as the whole subject of the budget and release of the figures and everything else is considered. the whole budget aspect at the same time.

Senator Hart. I don't understand this exception procedure. How does that work?

Mr. Kirbow. Senator Tower has asked the Chairman that if there was anything that had not been in agreement among the staff, that it could be brought before. that it would certainly come to the subcommittee.

Senator Hart. Well, the Subcommittee can go ahead and vote on something, can't they?

Mr. Kirbow. Yes.

Senator Hart. I think every member of the Full Committee reserves his rights when one matter comes before the Full Committee. I don't think there need to be exceptions filed.

TOP SECRET

WARD & PAUL

It's all de novo when it gets up to the Full Committee anyway.

Mr. Kirbow. I simply indicated to the Chairman earlier that I didn't want to have a reservation like that and not point it out to him because I didn't want the absent member to appear to be sandbagging the subcommittee.

Senator Huddleston. He's putting us on notice.

Mr. Aaron. Option 13, this option steps up to the question of whether the DCI in his new capacity as the overall manager of the community, and by manager I don't mean down in the nuts and bolts but having the general management responsibilit of interpreting the budget in terms of requirements, in terms of general guidance for the management of some of these activities, whether that function should be separated from that of running the CIA as an agency.

Now we have heard some testimony about the inconsistency between those two responsibilities. I think the arguments, if I can set them on the two sides, would be as follows. And by the way, there's a difference of opinion in the staff as to which of these is the right one to follow. The argument in favor of going ahead now to separate them is that these are inconsistent, that one could have, you remove the DCI from a conflict of interest situation in which he is both running one of the principal agencies responsible for not only clandestine activities but for a small segment of signals intelligence, the development of certain research and development programs that are

TOP SECRET

of great interest to the community, and you take him out of the position of having to judge other people's research and development programs and other people's SIGINT programs, and other activities when he is the overall director of Central Intelligence, and that therefore this separation, his removal from that, would be a good idea.

The second argument is that you really want to place the authority squarely on the new director of this agency who's going to be responsible for clandestine activities. If he still has a boss above him who is kind of responsible but who in fact because of his increased responsibilities won't be able to give the day to day attention to clandestine activities that he might, if he didn't have these greater responsibilities, one should make the lines of authority clear and place the responsibility for the head of this agency on that agency and leave it there.

Now the argument against that is that -- well, there are two kinds of arguments against. One is that the situation now is justified and that this is a good thing and we don't need to make any change and there are good reasons to believe that.

The second argument might follow in the middle and says, well, there is some inconsistency potentially. There might be some advantages to separating them as well as some costs, but we have now just instituted this new system where you have broader responsibilities for the DCI. Let's see how it works for

awhile before stepping up to the question of whether he can really adequately perform and wear both hats.

Those are essentially, I think, the arguments. If there are others that ought to be offered in explanation of the choice--

Mr. Bader. I would just underline that, Mr. Chairman, the second point that David has made about recommending the situation to stay the way it is today. That is, that the two hats would stay together.

I think some of us feel that the period in front of us will be a period of experimentation and testing where there are new responsibilities that will flow to the DCI. We'll see how they work, we'll see where his authority takes us. We'll see whether he really will in fact establish himself as the responsible director of, in a DCI sense, and we argued here that the oversight committee should be attentive to this to see how it works out and that if sometime in the future after we've had a chance to see how these expanded responsibilities work in practice, that will be a time to see whether the DCI and the Director of CIA function should be separated.

Mr. Aaron. I think that to argue the first case a little more strongly, if I could, there are two additional points to be made about it.

One is that in fact having the second half, running the agency will be an impediment to him effectively running the overall community.

So it isn't really just a question, I would argue, of seeing where the current system takes us. It's a matter of looking at what we have learned as a result of our inquiry and saying, in fact, this is going to be an impediment and it is my personal opinion and I think supported at least by some testimony that that would be the case.

The second argument, I think, is a somewhat broader one, and I guess I'm not prepared to make it. But we've had an inquiry into the CIA, some of its problems, some of its accountability problems, some of its management problems, and as a result of this inquiry there is, at least it strikes me as being some inconsistency to be argued between having this broad inquiry and ending up with a much stronger, larger, and more powerful Central Intelligence Agency in every respect with greater authority over other elements of the intelligence community.

Now you can only carry that so far but it seems to me that there is a serious question here as to, and it is seen in part by other elements of the intelligence community who really are concerned that by wearing the two hats, the DCI will still really be representing the Agency vis a vis their particular agencies like NSA and the others.

That's the choice.

Mr. diGenova. Mr. Chairman, if I could just note for the record that of the witnesses who testified before the

Committee. I believe the record reflects that Mr. Schlesinger was the only former DCI who was in favor of separating the Agency from the Director and all those who were still alive to testify who were former directors favored it, most notably Mr. McCone and also Mr. Helms, Mr. Helms characterizing the director as ending up with a disembodied spirit if he were deprived of this analytical vehicle.

So I think as far as the record goes. I think the record is against divesting the director of the Agency, although there is certainly evidence from those who felt that he should be.

Mr. Aaron. Let me see if I can clarify that record a little more.

First of all, the proposal is not to divest him from the analytical and production function. That we clearly provide for and that would not take place.

The second point is that I believe the record goes to the question of sorting out or separating the director as he has to this time existed in the sort of general kind of overseer and the kind of jawbone authority that he has had. And the questions that have been put to the witnesses generally have been put in the context of what was, up until recently, his authority in that capacity, and I might say personally I would agree with that.

I think if you were to divorce the director who essentially only had jawbone authority from an agency and the specific

gravity that that gave him, then he would be a disembodied spirit. But we're talking about a somewhat different situation now where he has real authority over the budget.

Mr. Kirbow. But also presupposes, Mr. Chairman, that you have decided already that you're going to separate the analytical side of the house up there from the clandestine side of the house and put them into separate agencies.

I don't believe the committee has decided that. The staff may have.

Mr. Treverton. It doesn't necessarily presuppose that.

Mr. Kirbow. If he's going to put the analytical side of the house over there with the DCI --

Mr. Treverton. Well, in any situation we would leave the DCI with his responsibility for estimates and a staff to do that.

I grant that the argument for separating the DCI from the CIA is stronger.

Senator Huddleston. Well, he wouldn't be without authority over the Central Intelligence Agency. He recommends the budget and tasks them. He gives them the responsibility and apportions the resources.

Mr. Lombard. I wonder if I could ask a question.

We have had previous DCIs who have testified that you should not have the divorcing of the DCI from the agency but that was based upon the organization as they then knew it.

Now my question is this. Assuming that we were to achieve all of the measures in the recommendations that we have here for the DCI budget and all the rest, it seems to me that that is an awful lot of work without having to be concerned with the day to day operations of the CIA.

I don't know. I just raise the question.

Senator Huddleston. I think that's a good point.

Mr. Lombard. He first of all has to present the budget to the President. He has to defend the budget up on the hill, and that's in at least four committees. And then he's got to have an analytical base, and presumably the national estimate function and on top of that, worrying about the day to day operations of the Agency.

I don't know if that is more than one may should be asked to do.

Senator Huddleston. Well, when we talk about major reorganization and re-assignment of functions, almost, and we're probably confusing that by continuing to call the man who is going to supervise all of the intelligence the DCI.

Mr. Bader. Senator, what we are entering into here is a period of transition for the DCI where he has new responsibilities which are not certain at this point how they will be implemented.

Part of our problem with this decision is, as has been stated and noted, most of the testimony of former DCIs is against the background of the present situation. So most of

it is not really relevant to the question of what the DCI will be doing if, and I underline the word if, these new responsibilities that are being thrust on him by both the Executive and by the Congress, are in fact implemented.

The argument I would make here is that the oversight committee should take some time and consider this, certainly in light of how these reforms, if they are reforms, are carried out.

Senator Huddleston. So that's option one.

Mr. Davis. The Executive Order is an attempt to look at the problem and to make one step which says there will be two deputies, and therefore the DCI will have someone who is managing his operations and takes some of the burden off and that's why they did it. And in a sense they recognized the conflict of interest and this was a step in that direction which we are accepting.

And when you say who prepares the budget, you have to be a little careful as to what that means. I mean the money is still authorized to the departments. They will still have their own budgetary process, and how exactly he gets control over that at this point is unclear. We're giving him language about how it's going to happen, and I think that's the argument for waiting a short time to see whether or not he actually does get control.

Mr. Aaron. I might just say that we have to look at

this recommendation as well, not simply in the context of the President's own proposals and own measures that he has taken but in terms of the measures which we propose be taken in statute, which of course the oversight committee or whatever responsible legislative committee will have the power to dispose of these proposals or recommendations.

But in that context it's very clear that we do give very unambiguous authority, very strong authority -- I think I've noted a few other points where we actually strengthened the thrust of the Executive Order. And so when we look at the question of whether he should or should not, whether we should or should not recommend that in the context of this kind of authority there will also be development of a statute that would separate these functions, it has to be seen against what we propose and not what the President just proposed.

Senator Huddleston. The fact is that if everything we have recommended so far should come to pass and the DCI should have the expanded responsibility and authority, he would be a more powerful man if he was separated from the operation of the Agency. He would be a more powerful man then than he is now as running the Agency and being the so-called coordinator, would he not?

Mr. Davis. That's correct, that's the purpose.

Senator Mathias. Mr. Chairman, do we have any testimony from other agency heads, how they would view this question?

TOP SECRET

End Tape 1

Mr. Lombard. We have come from the DIA.

Senator Huddleston. The DIA would favor separating the two.

Mr. Miller. General Allen has also said that.

Mr. Kirbow. General Allen at the meeting when this was discussed, he indicated that this has not created any problem for him, that he didn't see any favoritism being displayed on the part of Mr. Colby and the people he dealt with.

Mr. Maxwell. I think that's part of the reason why a number of us had favored option number one, was that a great deal of the trouble with the President's Executive Order and our recommendations was to give the DCI more authority. But for the period of time in which that has not been sorted out and we don't have a record for, to take away or recommend taking away essentially the troops that the DCI had used, which in the future hopefully he would not need if recommendations on both sides come into being would be to weaken him at a crucial time as people try to fill in the vacuum that is created.

Senator Huddleston. I think the question then is whether or not what we are recommending actually comes to pass. If it does come to pass, then this is an issue that needs to be addressed.

Now the other question is should we remain silent on it in the report or should we, as option one indicates here, leave it as it is until such time as it has been determined that it

would be advantageous to separate them.

Is that what we're saying there?

Mr. Aaron. Yes. I think there are really three options. One is to leave the stuff out, and my own personal preference would be to leave it out entirely if the committee did not feel that, if it didn't want to recommend that. It's kind of a half-hearted --

Senator Hart. Has the Administration already taken a step in this direction with the reorganization?

Mr. Aaron. It has by charging the new deputy out there and saying he's going to have more authority.

Senator Hart. How does one register disagreement with that? Vote for option one?

Mr. Aaron. If you thought that was inadequate, you would vote for number one.

Senator Hart. I don't think it's inadequate, I think it's wrong. I vote for option one.

Mr. Inderfurth. This also comes up under part 5(d), this whole discussion of options separating out.

Mr. Aaron. That's a separable question, the question of the structure of the Agency itself.

Mr. Davis. Under the Executive Order this new deputy for the intelligence community is physically moving out of Langley and coming downtown. That's supposed to be symbolic as well of the separation of the two roles.

Senator Huddleston. Could we solve it by just having a narrative statement at the end of all of these recommendations relating to the DCI to say that the foregoing, preceding recommendations would, if carried out, substantially strengthen the role of the DCI or they are intended to do that?

And this brings up the question as to whether or not in this expanded role he should also at the same time be essentially responsible for the operation of one of the agencies and that this matter, as his duties are expanded, this matter needs to be considered further and a determination made whether or not it's appropriate that he continue to hold that responsibility.

That's not a recommendation. It's just a commentary on what we have done.

Mr. Kirbow. It highlights the problem and passes it to the oversight committee, which would have time to conduct hearings on it after some history had been established on the new role.

Senator Mathias. Could Senator Hart elaborate on his brief statement of position?

Senator Hart. I think the division out there that apparently the President has worked out is a bad one, and I for one would like to go on record somewhere or another as opposing it.

Mr. Miller. Do you mean, Senator, that --

TOP SECRET

Senator Hart. I don't think this little dotted line means a damned thing, frankly. I've never seen an organization like that work in my life.

This is the --

Ms. Culbreth. That's ours.

Mr. Kirbow. At the present time, Senator, the Executive Order leaves the DCI as head of the CIA with a strong kind of executive deputy out there that does the day to day running of that.

Senator Hart. Well, I like that equally less well. That's the same thing.

Mr. Aaron. Senator, do you have -- is there another solution that we haven't considered?

Senator Hart. Yes. Leave it the way it is now.

Mr. Aaron. Make him run it but give him other responsibilities in other areas?

Senator Hart. Well, I don't want to name any names but some of the sort of nameless, faceless people that have been out there running operations in effect with some vague responsibility to report upward.

Senator Huddleston. Well, we say that in practice when these other, if indeed these other recommendations go into effect and he does assume this additional authority over the total community, once that happened, then it ought to be reviewed to see whether or not that additional authority still ought to

be operating head.

You know, that can be a dissipation of his accountability. You have a man that is so involved in so many other things that some nameless person is under him calling the shots. But if we were to move him away from that, then that nameless person becomes the man that we're looking to as far as the operation of the CIA is concerned.

Mr. Kirbow. At that time too wouldn't you expect that that person would be named as the Director of the CIA, would be nominated by the President and confirmed by the Senate?

Mr. Miller. What's wrong with having the DCI in charge of the community as long as the deputy is under his direct control?

Senator Huddleston. Well, you have the community of the NSA. You don't call the director out there the director of the DCI.

We should be consistent.

Mr. Aaron. Option 2 -- we'd have a clear deputy, we'd know who he was. He'd be confirmed by the Senate. He'd be a man of stature and he wouldn't be anybody's deputy. He would be responsible.

Mr. Kirbow. He wouldn't be a deputy at all. He'd be the director of CIA.

Senator Huddleston. He'd just elevate the deputy for operations to be the director.

TOP SECRET

WARD & PAUL

Senator Mathias. Isn't that in effect today except for the titles?

Mr. Aaron. Not exactly because he still reports to the DCI. Maybe part of your question goes to who that person ought to be and what kind of requirements there ought to be on that, whether you want to describe the kind of person you want out there.

Senator Mathias. Option 2 is really the President's order except for the semantics.

Mr. Bader. Not really, Senator.

Mr. Quanbeck. Option 2 actually separates. The DCI would be different from the Director of CIA.

Mr. Aaron. The guy you would hold responsible under the current system still has to be the DCI. Under option 2 the guy you would hold responsible would be the head of that agency and not Mr. Bush, in effect.

Senator Huddleston. If we go to my narrativeparagraph ---

Senator Hart. Can we have that written up and brought back?

Senator Mathias. I think this could be a critical recommendation.

Senator Huddleston. I was going to say we might add a line in there that a reason to review it and possibly to change it would be to give a better fix on responsibility for the actual operations of the Central Intelligence Agency.

That would be the main reason that I would think that you would move the DCI away from that.

Senator Mathias. But it does not appear to me that you exonerate your national intelligence officer, whatever you call him, just because you have someone else you can also point to.

I think you'd get two fish on the same hook if something goes wrong.

Mr. Aaron. I think that would be in part true depending upon what the particular problem was.

Senator Mathias. Well, sure, if their checkwriter is out of wack and they haven't called in the repairman, they might confine the responsibility to --

Senator Huddleston. Actually, you don't exonerate him. As I see it for the operations of the Central Intelligence Agency you have added to him the responsibility for the operations of the other intelligence agencies, too, and he has to review authority and he in fact would be the focal point of any misdeed or wrong deed that may occur, whether it's in NSA or CIA or whatever.

Mr. Aaron. It would really be very similar to the role he would now have under the Executive Order to the NSA. It's much closer to that.

We'll go back and draft a paragraph and present it either this afternoon or at our next meeting.

TOP SECRET

Now the next section refers to the Central Intelligence Agency in general. Now because so much of our inquiry is focused on the Central Intelligence Agency, we have a rather long series of recommendations regarding it.

Now the sections are briefly these -- those dealing with the charter for the Agency, for its conduct of espionage, counter-intelligence and covert action, and the question of covert action itself, how it might be conducted and what limitations might specifically, or rules and regulations might apply to it.

The production of intelligence, which is on its way, but it's not in here, there is another section. Then the impact on the domestic world of these activities both intelligence collection and covert action and I believe you had a good discussion of that longer paper prepared by Mr. Bader the other day.

And then finally, some discussions of the inspection system, the general counsel, the inspector general and so forth, and some recommendations in regard to that.

Those are the central parts of it. It includes, of course, such matters as proprietaries, cover and so forth.

Now if we could turn to the first set of recommendations, let me just make sure that there are not disagreements in the text that need to be brought to your attention.

Mr. Maxwell. I think there are. There are things that

were agreed upon at the staff level that were left out.

Mr. Aaron. I have one here.

Mr. Kirbow. Well, just for your information, there appears to be several things which were not just an occasional one but several things that were agreed on at the staff level that subsequently found their way back here in the exact original language.

But I won't dwell on that now.

Mr. Aaron. I'd be happy to take that out to see what we can do about it.

Now the first bracket that I find is on page 36. If there are any others before that that people have, we can take that up.

Mr. Maxwell. There's one on 33. It's not a bracket but it was a statement that would have been included as to the committee's findings as to internal controls on espionage activities by the Central Intelligence Agency.

Mr. Aaron. Yes, I recall that one.

Mr. Maxwell. Also on that page there's no effective machinery to make sure that those outside the clandestine service. I think that was addressed to the CIA because unless a finding is made at the CIA that the DCI at this point, the Director --

Mr. Aaron. I don't understand

TOP SECRET

Mr. Maxwell. The second full paragraph on 33, the way it reads, it assumes that the Director of the Central Intelligence Agency who is outside the clandestine service is not able to ensure --

Mr. Aaron. I understand. You're right. Okay, if these are agreed things and they have been dropped out, then let's just get them back in. I don't know that we have to take the subcommittee's time to do it.

But if we missed some that were disagreed and need to be brought to the subcommittee, I'd like to make sure we get them out.

Senator Huddleston. At the bottom of the page on 33, maybe it's just not coming through to me but the CIA engages in both overt and clandestine activity within the United States for the purpose of foreign intelligence collection by overt means from American citizens.

Mr. Aaron. I'm sorry. I think that foreign intelligence collection, period, and then the rest of that sentence comes out.

And then it says the domestic collection does the overt, and the foreign resources does the covert.

Okay, my first bracket is on page 36 and it is that the Committee questions the practice of recruiting for foreign espionage purposes immigrants desiring American citizenship.

The point was made that there have in the past been

TOP SECRET

instances in which those who were immigrants to the United States who wished to have citizenship were then approached by the intelligence agencies and either sent back as legal travellers and what have you and the question being the point of concern being that their vulnerable status of wanting to have permanent citizenship in the country made them more susceptible to either actual or implied or even imagined threats or imagined coercion.

Mr. diGenova. Can I ask a question about that? I'm totally unfamiliar with the subject and I'd like to know what the evidence was on the record.

Mr. Aaron. It came up in two cases that I recall and I'd like for Bill to speak to one of them. One case involved the Chinese in which the Chinese were approached and used for this purpose. I am not aware of any testimony that there was in fact coercion involved. The question was the practice and whether it has within it elements of coercion or at least the potential for it.

Now the second case I think you can speak to.

Mr. Bader. We have received testimony from a professor from a university in the Southwest that said that he had acted or was the middleman in an operation of recruitment of Jewish Russian immigrants who came to the United States who in particular were interested in some of the Russian Jewish immigrants who were quite young in hopes that presumably after recruitment they

would return to the United States. I mean the Soviet Union. We did not take that testimony any further than receiving his testimony. That is, we have not taken it to the point of asking the agency whether in fact they have such a program in the Southwest. So the testimony was limited to that one charge which I personally gave some real credibility to.

Ms. Culbreth. Can you explain just what the charge is here? What is the wrong that has been done?

Mr. Kirbow. What's wrong with that? That's the question I had in the original suggestion at the staff level.

The only human collection we are getting from behind the Iron Curtain in Russia today is principally either through our cooperation with the Israeli intelligence community using just this sort of individual and sending them back, or sending this type of individual from the United States back inside. We're not getting the other human intelligence.

Mr. Bader. I was only responding to the question of what the testimony was.

To go on to the further issue which I think is going to be addressed by the Committee, it's not the question of whether we should, the Central Intelligence Agency should be recruiting foreigners in this country for intelligence purposes, people who may return to their country of origin.

The question is whether the individual who is in the process of seeking American citizenship are in quotes "vulnerable

to exploitation for such purposes and whether in that shading the Committee would want to take a position about recruitment of that particular group.

Mr. diGenova. My position is this, Bill. The first time I heard about this was when I read it in these findings and conclusions. I never saw a hearing on it, I never saw a document about it; I never had a chance to comment on it as a designee, and I never had a chance to bring it up with my Senator.

I'm not sure that we want to say this, ask the Senators to say this, without having something in a report about what the practice is, how it's been conducted, who has objected to it, what's the extent of it, before we start making a recommendation.

We're saying we question the practice of recruiting.

I have no objection to the Committee ultimately making a statement like this. I just don't know what the record is. This is the first time I've ever seen this.

Mr. Bader. That's why I wanted it bracketed so it could be so discussed.

Senator Hart. What if we said we urge the permanent oversight committee to look into this question?

Mr. Aaron. I think it would make some sense to have gotten the Agency on the record that in fact this is a practice or something that happens.

Senator Hart. If it's happening, I don't think it should. If we have to sacrifice some human intelligence, I don't think we ought to have a CIA guy tugging on somebody's sleeve who's filling out his immigration forms because it is a very subtle and very powerful form of coercion.

I don't think it should go on if it is going on but I think the oversight committee should find out.

Mr. Bader. It's my personal position on this that we don't have the evidence. We have not taken it through to come to a conclusion on this .

I personally think that it's a problem that should be pointed out, and I think perhaps my own view is that the formulation of a recommenation to look into this as a possible, as a problem would be my recommendation.

I don't believe that is David's recommendation.

Senator Mathias. I would think that you might as you contemplate this thing, there are all types of opportunities for this and I don't have any idea whether it's been done or not, but I would think an illegal alien, for example, would be a tremendous target.

Mr. Aaron. I might just say --

Senator Mathias. It's a different problem.

Mr. Aaron. It's a subtle problem because abroad I personall was involved in a case in which someone seeking to emigrate to the United States, his desire to do that was exploited abroad

for the purpose of getting him into the Agency.

Senator Mathias. This is the kind of situation I'm thinking of, perhaps not an illegal alien, but someone who is in this country in some sort of legal status but which is of temporary duration and he wants to change his status.

Senator Huddleston. I can see that. Of course you're not going to get one unless there's something he wants. Most of them, it's either money or some change in his status.

Mr. Aaron. We drafted this language to make clear that they were really immigrants and they were not illegal aliens or people here changing their status or people outside trying to get in, but people who are inside applying for their citizenship.

Senator Hart. We could offer an option to have the Statue of Liberty say give us your huddled masses if you work for the CIA.

Senator Huddleston. I think there's a legitimate concern and that exploiting people who legitimately want to be United States citizens.

I also believe that, particularly anyone from the Soviet Union over here trying to become an American citizen, it's going to pretty well diminish his chances if he does go back to the Soviet Union that he's going to be taken into the confidence of very many people over there.

Mr. Kirbow. This is not an uncommon practice for the

United States. We've been doing it in the United States military for generations in giving earlier consideration for citizenship if he serves on active duty as an alien in the United States armed forces.

It's been done as long as I can remember and I was in the military over 25 years.

Mr. Maxwell. I think the only question is if we m... recommend against this practice if we don't even know --

Senator Huddleston. It bothers me that we would indict the Agency with such scant evidence we have.

Mr. Aaron. My recommendation is that we get the Agency on record as to whether this is the practice or not.

Mr. Kirbow. I recommend it be dropped from this if we had only one witness and we've not heard the Agency or that we develop a record to support both that and the same part of that first paragraph, which I don't think we have a record on either.

Mr. Aaron. We do have a record on that. It's an interview record, it's not a sworn testimony record. But the first sentence, there is an interview to support that.

Mr. Kirbow. Mr. Chairman, I think the subcommittee then should carefully consider whether or not it is concerned about the use of American companies in the pursuit of foreign intelligence and if so, how this impacts on anybody's rights or otherwise.

TOP SECRET

We just went through this the other day with the labor unions. The whole paragraph.

Senator Huddleston. I have some concern with that too. When we talk about expressly prohibiting penetration of American companies, it seems to me that the question is whether or not we're penetrating those companies with company executives being unwitting or whether --

Mr. Aaron. That's the point.

Senator Huddleston. It seems to me the real problem is when we were doing it secretly.

Mr. Aaron. And that's the point.

Senator Huddleston. The company ought to have the right to make a determination as to whether or not its interest would be severely jeopardized if this were to happen.

Mr. Treverton. I think this language probably isn't clear enough. If we did human penetration without the knowledge of the company on the operation of the company primarily --

Mr. Kirbow. We're talking about a corporate operation against a U.S. company in the United States?

Mr. Treverton. Presumably it would not be in the U.S.

Mr. Kirbow. If that's what's intended, it does not convey it to even an informed reader.

Senator Huddleston. Well, we say foreign intelligence collection.

Mr. diGenova. May I ask in this regard, it ends up by saying, although according to CIA officials such activity has not taken place -- what's the other evidence that it has which created the sentence?

End 2A. b 2B

Mr. Aaron. In looking at what the foreign resources division does in the way of penetration of businesses as opposed to collecting agents on campuses or in some other walk of life, we found that the FRD actually runs agents in only a few cases.

The cases are Americans employed by local industries in the United States or consulates.

In other words, in diplomat consulate establishments in which there are few cases in which indeed the Americans working for those diplomatic establishments are agents of the CIA through the foreign resources division, and the Americans are not officers of the CIA but they were agents of the CIA in that respect.

Mr. Kirbow. They work in the embassies as you say?

Mr. Aaron. Yes, here in the United States, and this is talking about domestic impact. This is not the foreign situation.

There has been at least one case and I belive there are two but only one I can specify, in which the FRD had an American agent in a foreign company, a foreign-based company. It was very unambiguous that the company was a foreign company

because in effect it was a public company of a country whose most business enterprises are owned by the government. But it's a company and it's business and it was a foreign company and the question was, and it related to --

Mr. Kirbow. And this agent was apparently here in the United States?

Mr. Aaron. Collecting intelligence on the activities of that company because that company had foreign policy implications for us.

The next question that was put to, I believe, the chief of the FRD was do you have any regulations that prohibited you from doing the same thing with an American company? And the answer was no, we don't, although we don't do that or we haven't done that or something to that effect.

That is essentially the story and how it came to pass.

Mr. Maxwell. There's some question on both of these whether there are ways of saying things that are important as recommendations without implying that A, these had gone on and B, that we have a record to support that.

There's also, I guess, a slight question in my mind as to the order of magnitude of the recommendations that flow from this in the promulgation of a specific directive.

That's slightly out of synch with the order of some of the other recommendations. The Committee might want to choose to drop that to a footnote or to do it in some other way.

TOP SECRET

Mr. Aaron. The recommendation that relates to that is where?

Mr. Maxwell. I thought that we had made a finding. It was number 25 on 39. That's a somewhat different order.

Mr. Aaron. Do I take it that --

Senator Huddleston. Is this penetration always in the context that it's unwitting?

Mr. Aaron. Yes. If it's witting, it's really collaboratio which is another matter.

Senator Huddleston. So although you could be witting --

Mr. Aaron. Well. the penetrating also applies and maybe we should also make this clear, but for the purposes of conducting some operation with regard to the organization, whether to make it do something in the covert action sense which collect information on it.

If it were simply unwitting cover, that's a different thing.

Mr. Maxwell. I don't think, David, that penetration was used in a context in the agency in the MH/BOUND --

Mr. diGenova. Penetration was for security purposes. It's to discover whether or not there is in fact a fly in the ointment with regard to the security of an American company.

That's the way it was used in MH/BOUND.

Senator Huddleston. That's putting a spy in the organization.

Mr. diGenova. Well, yes. In this case they penetrated Burbank, California and other companies, mostly defense contractors building planes in order to find out they had security risks, a laborer or an executive inside.

Mr. Maxwell. It was witting to a certain extent.

Mr. Bader. I think one of the problems we have here is this question of whether in our formal recommendations that we should enjoin the agency from doing things that they don't do. And where there's no evidence they have any intention --

Mr. Kirbow. The '47 Act prohibits this kind of conduct within the United States.

Mr. Bader. And I think that that should be carefully considered. We have no evidence that the Central Intelligence Agency penetrates Congressional staff, but we have not put it in as a recommendation that they should not penetrate Congressional staffs.

I think the other matter that has been raised about the operational exploitation of recruiting individuals who are in an immigrant status and seeking a change a change in status, we do at least have what I hold to be a responsible source saying that this practice, he has seen this in practice.

I think we should separate the two issues and on the second one it seems to me that if we could frame some language that is language of caution and concern, or we should move very quickly, it seems to me, to take some testimony from the Agency

on that matter before we can talk about the matter of the practice of recruiting because I don't think we can use the word practice until such time as we have --

Mr. diGenova. I didn't mean to impugn the integrity of your source.

The question is if the Committee gets asked a question about it later on and someone comes back and reviews these records and sees one person was spoken to or something, I don't really think that's much of a record to go around making findings and conclusions in a final report.

It has nothing to do with the integrity of the man from whom the information came. He's probably right.

Mr. Aaron. I'd like to recommend that on that particular point we tried to nail down with the Agency a little more carefully what the current policy or practice is and on the question -- but I still stand with the view, I might say, on the second one of expressing concern if indeed there is a practice and we do know that some of it has taken place in the past, if there's still no guard against it, then I think perhaps Senator Hart's recommendation about how the oversight committee should pursue this question further would be sufficient.

Senator Huddleston. Well, paragraph 22 over on 39, if applied to the FRD, would be a pretty good approach, I think.

Mr. Aaron. That would not necessarily rule out -- it would not step up to this question. This really is aimed abroad

at the question of duplication with overt reporting by the military attaches or by the foreign service or whomever.

In other words, it's trying to establish a standard.

Senator Huddleston. Okay, so where are we?

Mr. Aaron. I think we're at the following point that as far as the bracketed sentence is concerned, we'll go back to the Agency and establish what the practice is when review is necessary of including the paragraph along the lines suggested by Senator Hart saying the oversight committee should look into this particular practice if indeed it is a practice with the absence of policy on this point.

As to the question of American companies, I think I still need to be directed as to how to deal with that. I think when in doubt, delete.

Senator Hart. Can we just commend them for that? Can we say it's a good practice?

Mr. Aaron. Well, the Committee notes that it's been the practice not to do this and that that should continue as a part of their standard procedures.

Senator Mathias. Have we ever commended them?

Mr. Bader. There is much text here which talks about sensible, responsible practices.

Senator Mathias. I do think you should mention that we're talking about their domestic operations of American companies.

Mr. Aaron. Yes. FRD is supposed to tell you that but

it doesn't .

Senator Mathias. I think on page 36 and 39 it ought to refer to domestic operations.

Mr. Kirbow. I think we might want to consider too that there's an extensive section of the domestic activities of the CIA coming into the domestic task force report, the subcommittee's report. And if don't put in a comment like this, it'll probably ' all go in that other section. Whereas here we're dealing with an apparent possibility that sometime in the remote future there could be an abuse and there dealing with the abuse section and this kind of departs from what you've done otherwise.

Mr. Bader. I would say on that score that this is a foreign intelligence matter. That is the objective. And I think if it's going to be mentioned, it should be mentioned here.

Mr. Kirbow. It is on the immigrants, but I don't think whether or not you're penetrating an American company to, illegally or anything else, if there's any way you can get around the 1947 Act which prohibits that kind of activity by the CIA in the United States for whatever purpose, to penetrate them other than security of your own facility.

Mr. Maxwell. One thing that might make this easier is I think that if weexpressed any concern in that direction exists in regard to this practice, we would get one promulgated quite

quickly.

Mr. Aaron. I would recommend that we accept the suggestion that we put this in a positive sense and proceed on that basis and clarify the word penetrate and the fact that it is the domestic aspect.

Mr. Kirbow. Could we ask the Agency to comment in some way so that at least we don't recommend to you that you --

Mr. Aaron. I'd be happy to do that again.

Senator Huddleston. Well, now it's 12:00. I hope there's some way we can get through this today, which would include of course a night session which Senator Mathias and I are available for.

We've done 38 pages out of 160.

Mr. Aaron. I think it will give focus essentially on the recommendations and the bracketed portions that that should prove possible to at least break the back of it.

Senator Huddleston. We can at least try.

Mr. Aaron. If we come back at 2:00, I think we could probably have cleared away a couple of the other sections and then we will be really ready. We will have the full book here and we can go at it.

Senator Mathias. 2:00, I think, would be better for me. Let's say 2:00.

Senator Huddleston. We'll adjourn until 2:00.

(Whereupon, at 12:00 o'clock noon, the hearing in

the above-mentioned matter was recessed, to reconvene at 2:00 o'clock of the same day.)

TOP SECRET

AFTERNOON SESSION (2:20 p.m.)

Mr. BAder. Mr. Chairman, before you begin I might mention that tomorrow morning at either 9 or 10:00, depending upon whether this subcommittee meets tomorrow morning, we've arranged for representatives of the FRD, the Foreign REsources Division of the Central Intelligence Agency, to give us testimony on some of these issues that have been raised, such as the use of immigrants, some of the figures that they've given us, and this question of penetration of American businesses.

That will be scheduled, as I say, at either 9 or 10:00 depending on whether the subcommittee meets tomorrow morning.

We would like to have a Senator swear those witnesses and then obviously any Senator who would like to attend is invited.

Senator Huddleston. My thinking now is that we would meet probably at 10:00.

Mr. Bader. We could certainly do it in an hour's time.

Senator Huddleston. I would like to attend that session.

Mr. Bader. So we'll start at 9:00 promptly.

Senator Huddleston. Senator Mathias had the suggestion that in view of the fact that there is specific legislation relating to that subject and that's in the Immigration Act --

Mr. Bader. I've asked them to be prepared to speak to their interpretation of the provisions and restrictions in the Immigration Act.

Senator Huddleston. But our recommendation is that we would review the act and the practices.

Mr. Bader. If we have this room, as I hope we do, we would take the testimony right here and if need be, move it to another room.

Senator Mathias. In the event that I should not be able to be here, and I hope I will, I think we ought to look at this thing pretty closely.

As Senator Huddleston said earlier, you don't recruit these people just out of the blue unless there's some reason for them to sign up, and I don't think we want to be too critical of recruiting procedures; to revert to the phrase that we used yesterday, these are consenting adults.

I think what we have to look at is the degree of coercion which is implied here, the kind of bind that you get these people in where they really are perhaps totally alienated from wherever they came from, and what sort of a crack do you put them in and that not only goes to the humanitarian aspect of it but to questions over liability and the rest.

Senator Huddleston. I think they could be very helpful to us.

Mr. Bader. Senator, I could also try to adjust the time, Senator Mathias. It could be before or after our afternoon meeting, if that would be more in your reach.

Senator Mathias. Well, I haven't gotten my walking papers for the morning yet.

Mr. Inderfurth. It's interesting in this respect to th about Lee Harvey Oswald, about his being over there, and we're talking about immigrants coming here and defectors and so on.

Senator Mathias. It's the other side of the coin.

Senator Huddleston. There's a question of how many doors we ought to close.

Senator Mathias. Mr. Chairman, I regret to raise a further complication. There's a meeting that I had for 6:00 that's now been postponed to 6:30. So it would probably mean I can't get here until 7:30.

Senator Huddleston. Maybe 7:30 would be a better time: I don't know. These people need to get out and get some fresh

air too, I would expect.

Before we get into the substance here, I understand that our new mandate is if possible to complete ours no later than Friday. So we're going to try to shoot for tomorrow.

What the Chairman would like to do would be for us to have our report in some kind of form that we can give to the Full Committee by Friday so that they can review it over the weekend and the Full Committee can start on it on Monday.

Now how do you think you would stand on that proposition?

Mr. Bader. This is the principle findings, conclusions and recommendations?

Senator Huddleston. Yes, which would mean that whatever changes we are making here in phraseology and so forth should be incorporated and retyped.

We have that problem.

Mr. Aaron. I would think that that's do-able. I mean it remains to be seen how extensively you would want to debate some issues and the extent to which you will simply want to bracket them or identify them and have the principal discussion take place in the Full Committee.

But I would think that that's feasible.

Senator Huddleston. To delay it past Friday, of course, would delay the time that the Full Committee could consider it because they need to have it in their hands at least one day. It might go fast in the Full Committee. I have no way of

knowing.

Mr. Kirbow. Bill, because you and I both know Senator Mathias's previous intentions stated in the letter to the Chairman, was there somewhere a discussion about releasing this piecemeal ahead of time that might, that should go on the record here?

Mr. Miller. If it's agreeable to the Subcommittee to get it done by the weekend, he proposes that they take up in Full Committee the findings and recommendations of the foreign group.

The domestic group is much further behind, so they would not take it up until about the 24th.

The question of whether to release any information or any report that may be decided by the Committee ---

Senator Huddleston. We'll let the Full Committee decide that when they get the report.

Now where are we then on the report part?

Mr. Aaron. We have, we're in an extensive program of trying to get the Agency's views as to what information is sources and methods and what is classified for other reasons and what have you.

We have, I believe, all but four papers have been read by the Agency in one form or another and are in the process of going out there. The four that are not are the Congressional oversight and the CIA budget paper, although the budget section

of the defense report, which is the substance of that has been discussed at great length with the Defense Department and they are happy with it except -- well, happy with it may be an exaggeration but they have no problems with it except for the numbers and the Committee itself will have to step up to the question of whether the large number or any subsets of numbers will be released.

The internal oversight, the Office of General Counsel and Inspector General has not been.

Is that right?

Mr. Maxwell. That's right. No material that was used there was derived from classified material.

Mr. Aaron. So that shouldn't be a problem. The general papers on covert action and espionage have not been given to them. They are just being completed by the staff essentially. All the others, and the chemical and biological one has not been shared with them.

Now beyond that all the others, I believe, have now gone out to the Agency in one form or another. The only one that seems to be approved, or at least we've gotten the go-ahead on, is the Department of State's paper and the Department requested one deletion, which we are prepared to make.

Senator Huddleston. All right, then. As I understand it, the Chairman, if we are able to get ours to him so the Full Committee can begin on findings and recommendations on

Monday or Tuesday, even. His hope is that during the course of the next week the Full Committee will finish that.

In the meantime, of course, we can still be working on these reports looking toward, hopefully, if we could have those by the end of next week, too, then the Full Committee would be in a position of at least having the material available to them if we decided to release everything at one time or if we needed a few more days to refine the reports themselves.

That's about as much as we can hope for.

Mr. Aaron. Okay. I think that to be realistic about the longer material, it is a lot longer and I think to be at all proud of the material we will want to be sure that we have gone through it.

So therefore I think the end of next week is probably not realistic of having it in shape for the Full Committee to bless it.

On the other hand, I think that before the end of the month it would be possible to have a product, unless we run into some enormous snag.

Senator Mathias. But that does not contemplate the executive review.

Mr. Aaron. No, I'm sorry, that is including executive review.

Mr. Miller. But it does not contemplate printing.

Mr. Aaron. That's correct.

Mr. diGenova. Yesterday, Mr. Bolton indicated to me when I was there that there was no way that they could complete sources and methods review by the 15th of March, and I said I didn't see how they could either, since they had just really begun having access a week or so ago or whatever it was. And they seem to think that the end of the month is probably, considering the rewrites and a chance to look at the rewrites--

Senator Mathias. I have been independently advised of the same thing, that the end of the month is maybe a little optimistic.

Mr. Miller. Senator Church just talked to Director Bush and I talked to Mitch Rogovin just prior and worked out an arrangement on the question of clearances of sensitive material and the Chairman told Mr. Bush that he will take whatever time is required, he asked for expeditious effort on their part. Mr. Bush said that he would urge his troops onward, and he recognized that there had been snags and difficulties. The Chairman said that he was not going to press beyond the capability of either side. He wants to do the proper job and whatever time is required.

He said that he hoped that we could cooperate and work it out so that we could finish by the end of the month. And Mr. Bush said that he would make every effort to do that.

So that seems amicable between the Chairman and the Director.

Then the question arose about the deadline on the 15th and the Chairman is going to ask that this deadline be set aside because of the problems of not being able to finish security and those other matters.

So he is taking steps to do that now.

Senator Huddleston. But I think it's still encumbent on us to make a special effort to move as fast as we can, and we plan to go ahead tonight.

Okay, now we get back.

Mr. Aaron. We're on page 37 and the procedure we're trying to follow to expedite things is to look particularly at the recommendations and at the bracketed language.

Now recommendation 20 --

Senator Huddleston. Before we get to 20, there's a problem in wording. "The last paragraph before 20, the Committee also found that there's no established inter-Agency mechanisms for establishing the bona fides of defectors." You've used established twice there.

Mr. Aaron. I think we can take the first one out.

Ms. Culbreth. We might say, David, that the staff hopes to take a real editorial shot at this before it gets published, anyway, and maybe even before it gets to everybody next week, and we would hope that we can get a lot of these things.

But certainly, any that you see that you want us to be sure that we get to, point out.

Mr. Kirbow. Mr. Chairman, on that particular thing, at the staff level I had bracketed that entire paragraph because I'm not sure what we're trying to accomplish by what you say there.

This is probably the most difficult task that faces a counter-intelligence organization any place in the world is to establish whether or not a defector that you have just picked up is a double agent or not.

I listened to the man who has done this all his adult life at the Agency, Mr. Angleton, and he never made it clear just how you ever are sure that you have a bona fide.

And then his follow-on said basically the same thing. What do we intend to do with this finding? Do we intend then to legislate something? What are we going to do with it?

Mr. Aaron. The finding goes to the recommendation later that there be essentially for other purposes. But a subcommittee of the National Security Council on the subject of counter-intelligence which would look at other matters and we will get to that in a moment, but among its tasks is that it would be a forum in which differences of opinion as to the bona fides of a defector could be discussed and potentially reconciled.

Mr. Angleton testified and spoke at length in other forums with us about the fact that when -- that at present there really is no way that there's a difference between the FBI and

CIA as to the bona fides of a defector and there's no way for the government to come to a decision about it.

And this really makes that point and leads to the further point that we believe there ought to be some mechanism whereby some decision can be reached. Now people may still have reservations, as they do about this particular individual we refer to here. But in the end one has to make a decision and simply keeping him in a jail some place is probably not a useful way to proceed, and in fact, this is the kind of recommendation that comes from Mr. Angleton and seems to be supported by other people, even his successor at the Agency.

Mr. Kirbow. Do we have any place in our findings that discusses the so-called, this single case of some sort here? Is there some evidence?

Mr. Aaron. Yes.

Mr. Kirbow. It's going to be in the report when somebody else reads this? They'll be able to go some place else and see what you're talking about?

Mr. Aaron. That's correct. It will be in, I believe it's in the paper on counter-intelligence. It's also addressed in the Rockefeller Commission report.

Now as the first recommendation, I think that we have agreed at the staff level to take out the brackets and put a footnote which would make it clear that while the primary mission of the CIA would be to collect denied or protected foreign

TOP SECRET

intelligence information, that this would not, you know, that at the same time the Agency could be directed to perform such other collection tasks as directed by the NSC.

In other words, the point is that certainly they do some overt collection. For example, foreign broadcast information service is done by them as a service and so forth. But at the same time the point of giving the CIA a charter is to give it a charter for its primary mission and as set forth NSCID 5, for example, that mission is to conduct espionage.

Senator Mathias. What about the role of statistical analysis? That kind of analysis that can be deduced from study of voluminous quantity of economic information much of which is public?

I'll go back to the ball bearings, the ball bearing factory.

Mr. Aaron. Well, this goes to the point really of the organization of this section. There's a separate section on the production of intelligence which would authorize the CIA to produce national intelligence. That kind of thing. The Central Intelligence Agency as the producer of national intelligence must be the recipient of all intelligence flowing into our overall national intelligence effort, and that intelligence includes overt intelligence as collected from the Treasury Department, from Commerce, from Labor attaches abroad, the full scope of information collecting, most of which

is not secret or clandestine and is available to the CIA and it would be their job to compile it.

And that does not exclude other functions. For example, the analytical function is not mentioned here. This is simply to give it the collection function and that is because the paper is simply organized in that fashion. It doesn't try to step up to the whole charter, every aspect of it. We just try to break it down.

Mr. Maxwell. Should there be a kind of overt foreign intelligence which the NSC with the mechanism for allocating priorities within the intelligence community should be done by the CIA?

It could under the formulation now do that.

Mr. Aaron. That's why for example there's one thing that they do that's overt. Even their clandestine people abroad do an overt collection job and that is biographic information and that, while it was once in the State Department, was transferred to the CIA because they have a lot of clandestine biographic information and as a matter of centralizing and efficiency the decision was made to move it over there.

That kind of thing would not be precluded and would still exist.

Now it goes on to state that in doing this we would also recommend authorizing the CIA to carry out the recruitment of agents within the United States for this purpose. And it goes

further to say that there would be an annual review of this activity by the Senate oversight committee and by the counter-intelligence committee which we proposed be established and has been agreed here as a recommendation of the National Security Council.

Now the further sentence that is in brackets calls upon the Attorney General to certify to the President and to the oversight committee that these actions are being taken in a manner that does not violate the Constitutional rights of American citizens or any other provision of law.

Trying to keep track of the domestic intelligence recommendations is a little bit like painting a moving train, but this tends to coincide with their recommendation, and the purpose of this is obviously to place a little tighter restriction and more authority in the hands of the Attorney General to ensure that these domestic espionage-related actions that are conducted on a covert or clandestine basis are in fact not infringing on Constitutional rights or attempting to break the law in any way.

Mr. Kirbow. You're really talking about recruitments now. You're not talking about other clandestine and covert activities and operations?

Mr. Aaron. That's correct. It's not, for example, if you were to establish a base in Florida for the purposes of harassing Cuban shipping. That would not come up here.

Mr. Kirbow. And the bracketed information, Mr. Chairman, was that I didn't feel at the time we considered this and I asked that it be bracketed, that the Attorney General who is never going to operate in this area alone, he is not going to make these decisions without staff support of some description, and if he's going to do that with people in the Department of Justice, which is where he gets the staff, the concern of the people in the Agency about broadening even within their own agency those people that know about the agent procurements and where they are and whom they are is of vital concern. It's probably one of the most carefully guarded secrets. Even to the extent that Mr. Colby testified before this Committee under oath, he said, I don't want to know the names of the agents because someone may want to decide some day to wrassle it out of me.

I don't know what the Attorney General certifying here does for you if on the same subcommittee you have the DCI, who is the President's principal man, you have the secretaries of state and all these other people apparently at the beck and call in intelligence matters to put the Attorney General and his staff into the agent procurement business.

Senator Hart. Not in the agent procurement business.

Mr. Kirbow. I mean with knowledge of agent procurement.

Senator Hart. Well, the Attorney General is in the business of upholding and defending the laws of this country

and he can't do that if he doesn't know when one of the agencies of the Federal government might be breaking them.

It's a chicken and egg situation.

Mr. Kirbow. You think he should approve the policies or the actual procurement of the agent.

Senator Hart. The procedures. Nothing in here. I mean we have argued this thing for 13 months, there's nothing here that requires the Agency to turn over names of their sources or anything like that.

The Attorney General doesn't need to know the names even more than Bill Colby does. or less. Just to find out that the procedures of violating the laws of this country, that's all.

Ms. Culbreth. Could I raise another point, Mr. Chairman?

It seems to me that one of the concerns that you have with having the Attorney General certify in this specific case to the President and also to the oversight committee is a consistent problem that I think runs throughout our recommendations.

On the one hand, we are describing for accountability within the Executive Branch of the proper people, and on the other hand we are afraid that if we make him accountable, we're giving him so much power that they are going to disregard the Constitutional obligations.

In this specific situation, for example, we've already got the Attorney General being involved with the oversight responsibilities. When he takes office he already has the obligation to see that all the laws and activities of agencies are carried out as they're supposed to be.

And in addition to that, we are proposing in another part of our recommendations that the general counsel and the inspector general of the CIA be subject to Senate confirmation so that there are lots of other kinds of checks, and I would just hope that as the Senators consider additional proposals like this, that we don't get to the point that the Congress is hamstringing them inside the agencies on how they carry out the responsibilities.

Each one of these standing by itself may look like, well, this is a good idea and we should have this additional certification or this addition chain of reporting and making sure you get it authorized.

But I have a fear after having looked through a good bit of this, that we are getting too many layers in there, and I would just urge a caution if there are situations where we maybe have it pretty well covered until we get some opportunity to see how this new set-up is going to work, whether we're going to have the kind of abuses we had before. Maybe we don't need each of these details of Congress going down into the agencies and saying how they go about their day to day business.

TOP SECRET

Mr. diGenova. Mr. Chairman, I would add in that regard that with regard to the specific recommendation, this is not going down into the Agency. This is talking about the Attorney General who is the head of an agency, first of all, and the history has shown that other Attorneys General who took the same oath that this man did didn't do their jobs and one of the reasons was that they didn't know about certain things.

And the purpose of this provision is to make them aware of what is going on, to make legal judgements and to advise the President about the legality of procedures attending the recruitment of agents and other activities within the confines of the United States.

The provision for confirming the inspector general and general counsel is a wholly unrelated thing to this although it doesn't go to the problem of reaching down into the Agency.

I don't see how that does that because he's going to be dealing with the DCI.

Senator Huddleston. Contrary to many of the things that we do, we provide ways to correct abuses once they've happened and it seems to me this is a principal way of trying to avoid abuses to start with.

If I were on the oversight committee I would certainly, and if were getting the information that we contemplate the committee would get, then that is we would know about these things

I would certainly want to know whether or not the chief law enforcement officer of the country thought they were legal or illegal, or if there was a question about it.

Senator Mathias. I have a real question if I were Attorney General whether I would sign what we would call for here.

Senator Huddleston. The certification bothers me a little bit.

Senator Mathias. How could I as Attorney General say that I certify that all the actions in this area do not violate Constitutional rights of American citizens or any other provision of law?

I have worked in a state law department and had to sign some certifications much simpler than this, and I agonized over them. And this is so far beyond the personal knowledge of the Attorney General for him to make any kind of certification, I think we should get him involved but I question whether it should be a certifying.

Senator Huddleston. What's the step just under actually certifying?

He could review. He could certainly raise a red flag. His oath would require that he do something.

Senator Mathias. If you force him to certify, I think you're going to get such a wishy-washy thing that to his knowledge and he was not advised to the contrary and stuff like

TOP SECRET

WARD & PAUL

that.

Mr. Aaron. I think that's a fair point. The question, I guess, the case at which the certification would run most would add to what already is in the sentence preceeding it which is review by the Committee which the Attorney General is to chair, would be the case in which the Attorney General is aware of a particular activity, is aware that it is illegal but just doesn't do anything about it on the theory that it is somebody else's business. And he doesn't really, he doesn't have an obligation in this category of matters to render a judgment and bring it to the attention of the President or the Congress.

Senator Mathias. Why don't we say this, that the Attorney General be required to advise the President and the oversight committee that he is familiar with the procedures established to accomplish this purpose and that he is not aware of any violation of the Constitution or other law in the execution of the action.

I think you can lay that kind of a burden on the Attorney General .

Mr. Aaron. Would it be possible to just make it sort of a reporting function in which he said, and this is in the same direction, the Attorney General will be required to advise the President and the oversight committee if he finds that these options are being taken in a manner that violates?

Senator Huddleston. Yes. First he must review them.

Mr. Aaron. And if he finds a violation, evidence of violation, then he must report to the President and the oversight committee. Just place the responsibility there.

Senator Huddleston. If in his opinion.

Senator Mathias. I wouldn't have any trouble with that.

Mr. Maxwell. I have one other point on that paragraph and that is it provides for annual review by the counter-intelligence committee of the National Security Council.

I had understood we were dealing with the recruitment of agents for the United States foreign intelligence purposes, and the question is whether the counter intelligence committee which was to focus on resolving issues involving the bona fides of defectors, issues between the FBI and CIA would be the body which would have the appropriate knowledge in the positive intelligence value, or whether it should be assigned to a counter-intelligence function.

It's simply a question of where the responsibility should be allocated for reviewing those within the National Security Council structure, and I wasn't clear whether the counter-intelligence committee was the appropriate one.

Mr. Aaron. Well, on that point, the purpose of setting up the counter-intelligence committee is essentially to look at the domestic impact of our intelligence activities, the primary ones being in the counter intelligence field but also

in the positive intelligence field.

In fact, the resolution of the bona fides problem is a much smaller aspect of those two problems but the existence of the committee with some knowledge of the problem of counter-intelligence makes it possible to have a forum at the National Security Council level to address it.

Mr. Kirbow. What abuse that has been brought up in the past either in the press or accusations about a committee is this aimed at?

Has there been abuses that we have documented or reported that indicate that this has violated the Constitutional rights of anybody, includiut these foreigners for this purpose?

We must be aiming this at something other than just kind of pulling it out of the air?

Mr. Aaron. I think it really comes more in the category of questionable practices and I wish I had the domestic fellow here but it's really a question of, for example, when you're in the process of trying to recruit foreign assets or even Americans to perform foreign intelligence missions where you may begin collecting information on Americans for the purposes of assessing whether they are helpful to you in approaching the particular person or whether they would be a good access agent or whether you might conduct some other kinds of surveillance. It's more of a safeguard, I think.

TOP SECRET

I don't think we're really necessarily closing the barn door to some enormous abuse.

Mr. Kirbow. I had never heard of one in that area.

Mr. Aaron. I think by and large the FRD's quite clear. In other words, when we went through the CHAOS and some of these other programs that were questionable, there were some cases in which some of the reporting that took place as a result of the foreign resources division got into the CHAOS net. But the foreign resources division managed to stay clear of in general and resisted in fact the effort on the part of the CHAOS team to go out and actively recruit in this area on a clandestine basis.

This is really sort of more in the category of A. insuring that that doesn't take place and B. giving them help that they can say no, giving them a place to go if pressures such as the Huston Plan type pressures are brought to bear.

Senator Huddleston. Well, there are several places in our report findings, several cases indicated in the testimony we've taken that the Attorney General ought to review and recommend.

And I'm wondering whether or not rather than just spotting it at these various places whether we couldn't make a general recommendation. We've already got the Attorney General on the Committee and that he review, if not all practices but at least whatever practices, the same language we were just talking abo

TOP SECRET

for this paragraph, that he review and that he advise the President and the committee if in his opinion any of these practices violate the Constitutional rights of American citizens or any other laws.

Mr. Kirbow. I would feel much better about this since it hasn't been an apparent abuse but to see that go in the general recommendation that all of the activities of the intelligence community be reviewed by him or be examined in whatever way you think it should be done for that purpose.

But it would seem that it cuts then to a general preventive type mechanism instead of being here kind of put in against the FBI, which as we say apparently has been doing it properly all along and not in violation of the law.

We don't appear to be accusing them of it here, although the language may not be quite so specific.

Mr. Aaron. I might just say that there is a further recommendation that involves the Attorney General on page 40, which is number 27 dealing with the same committee, a different aspect of it.

What this does is it elaborates with the recommendation number 17, which establishes the counter intelligence committee and it deals with the two sides of these activities. On the one hand it's going to review program for positive foreign intelligence collection, clandestine within the United States and on the other hand it's going to review the counter intelligenc

programs of the CIA and FBI that are conducted inside the United States both from the standpoint of their legality.

Now I think it's possible to consolidate those recommendations so that we don't say it twice, and I also think it's possible to take out any implication that these programs were not necessarily conducted properly in the past.

But I would hate to sort of just have, and my personal feeling is that I would hate to have a general kind of thing that the Attorney General ought to do this because he ought to do this already. And what we're trying to do is make some recommendations that are more specifically targeted on the subject matter that we have reviewed and give him, in effect, specific charge.

Senator Huddleston. Well, we are giving him the specific charge of reviewing it, which apparently he didn't have before. Now before when something came to his attention he certainly had the responsibility to move on it if in his opinion it was contrary to Constitutional rights.

Mr. Aaron. So I see you're discussing the last sentence still, is that right, not the review point?

Mr. Kirbow. He rightfully assumes, as the common law does, that all government officials in an official position are performing their duties properly.

Senator Huddleston. We want to go beyond that, though. We want him to know what they're doing.

TOP SECRET

Mr. Kirbow. And when you say he should review it in kind of a general recommendation, then you talk about all of the intelligence functions having any possibility of affecting the laws of the United States.

I really would like to see that kind of requirement placed on the Attorney General as a general requirement instead of trying to just pick out little specifics unless we have an abuse connected with it.

Now in the domestic task force they have specific abuses and they make specific recommendations of corrective action, but that doesn't appear to be the case in either of these here, either the true covert operations --

Mr. Aaron. I might make a suggestion along those lines just in terms of simplifying some of this. It might be possible to take the first part of the review section here, follow it with the recommendation on the top of 27 saying the domestic counter-intelligence activities of the CIA would be subject to this review and then follow that with a third recommendation that the Attorney General would be required to advise the President and the oversight committee if he found any irregularities in either one of these programs.

Senator Mathias. I think that's more reasonable and it does what you want to do which is to force the Attorney General's attention to it.

Mr. Aaron. All right. Could we turn for a moment to

number 27 because it has a bracketed portion that we might considerably do away with.

That's page 40.

The bracketed portion says that the NSC would approve all counter-intelligence activities of the CIA in the United States and it spells out a kind of procedure there.

Now the net effect of this kind of procedure really is to establish that the FBI is without question, I mean the practical effect is that the FBI is without question the counter-intelligence agency and you've got to get the President to approve anything that the CIA is going to do in this field. And that is really it inside the United States. That's the net effect of this paragraph.

Now my own personal view of this paragraph is that it's probably not necessary. We have the NSC committee. It is supposed to resolve the question of where the FBI lets off and the CIA begins and it is an NSC committe that can report to the President if they have a disagreement.

I'm not sure I feel strongly about it.

Mr. diGenova. I would only add that I spoke to John Elliff about this paragraph and he also feels that it's unnecessary to do this. He thinks that this consolidation would be bad, first of all, and it's unnecessary second of all.

Mr. Miller. Which consolidation?

Mr. diGenova. Aren't you talking about the consolidation?

Mr. Aaron. No, we're talking about the paragraph that just precedes it. I'm sorry, this is the bracketed portion. I'll read it out.

"The CIA should receive NSC approval of all counter-intelligence activities within the United States. This approval should be given by the President and be supported by the recommendation of the NSC counter-intelligence committee, Attorney General and the Director of the FBI. All such projects should be reported annually to the oversight committee."

Mr. Maxwell. I would move that we just strike that as unnecessary.

Senator Huddleston. That's a vote. We'll be right back.

(A brief recess was taken)

Senator Huddleston. Well, it's 3:30. Let's see if we can resolve anything.

Mr. Aaron. Now the next recommendation, which is number 21 goes to the establishment of a special committee of the Committee on Foreign Intelligence, which would review human intelligence collection problems.

This is an area where there has been some effort institutionally to try to get a handle on it but it is essentially split about as widely in the government as you can do it. You have a State Department that produces at least

TOP SECRET

WARD & PAUL

in volume the most material and according to CIA analysts most of that information, a large proportion of that is keyed to their report and yet obviously a great deal of clandestine collection is carried out by the CIA itself and the military services account for a significant amount of collection, some of which is extremely important in countries with military governments.

The issue then becomes whether there shouldn't be a particular mechanism to deal with it and the proposal here is to create a subcommittee of the CFI for that purpose, or a special committee of the CFI. And the reason for that is to put in the chair the Department of State or the Secretary of State's designee and representatives of the Secretary of State and it would e a committee essentially of the CIA, the Department of State and the Department of Defense trying to bring some focus into those programs and making some choices and so forth.

I might have Bill Bader speak to it. I think the recommendation originates with him.

Mr. Bader. This recommendation is part of two basic recommendations that deal with the question of human intelligence collection.

First is the question of the approval mechanism. As you'll see when we get into the latter part of the paper, one of these very strong recommendations that we have as the committee, or is being offered to the committee as a possible recommendation

TOP SECRET

is that human collection projects would go to the operations advisory group for approval. That is, for operational approval.

As you know from our testimony these kinds of projects do not go to the 40 Committee type organizations where they deal with covert action projects.

So on the one hand we're hoping to deal with the question of operational approval. In this particular subcommittee we go to the question of overall management and direction of tasking, what should we be doing, what should the United States be doing in the human collection field? Where should we be in x number of years? What should the principal objectives of human collection be?

And in this way we hope to bring the diversity that now exists in the community from the CIA to the military services and bring it together under the chairmanship of the Secretary of State who would help provide this kind of overall direction and management guidance.

It is not an important elaboration of the committee on foreign intelligence. It should be there in any event because it's a management problem. This gives it focus, this gives the Secretary of State the chairmanship of a committee and I think properly so, that deals with this larger problem of whither human intelligence collection.

Mr. Maxwell. It's unclear here whether it's chaired by a representative of the Secretary of State and the DCI and

Secretary of Defense are expected to attend or whether they're all supposed to be designees.

I don't know what the protocol is but is it likely that the Secretary of Defense would attend if it were a designee of the Secretary of State?

Mr. Miller. Sometimes, sure.

Mr. Bader. They certainly did on these other committees. But what would you propose?

Mr. diGenova. The language is a little unclear.

Mr. Bader. Perhaps it should say that the Secretary of State is chairman and he presumably then could designate whomever he pleased.

Mr. Kirbow. As a matter of practicality, if the Secretary of State doesn't show up and the Secretary of Defense is there, who's going to chair the meeting?

Mr. Aaron. As a matter of practicality if the Secretary of State doesn't show up, the Secretary of Defense won't be there.

Mr. Kirbow. And you digress down because he's never going to go to this kind of meeting where he takes up the day to day operations.

Aren't you really talking here, don't you leave the language so vague that you fail to imply that what you want is a review of the policies and not the day to day, we need one more agent in Amsterdam and two more in Brussels?

Mr. Aaron. That is not what we want to convey and so you are correct.

Mr. Kirbow. They should review the policies and goals and requirements, really.

Mr. diGenova. How about policy at the end of the first sentence?

Mr. Aaron. Human intelligence collection policy.

Senator Huddleston. And eliminate the part about size.

Mr. Bader. Review and make recommendations with regard to policies and priorities, and then there's a misprint here. We don't need American U.S. clandestine.

Mr. Kirbow. Down through the word, the two words, human collection before the last sentence, you get into kind of a great deal of detail about what they're supposed to consider, whereas if you said they should consider the policies of human intelligence, human collection and the trade-offs between covert and overt collection and the sorts of things you have brought to a committee a consideration of this problem which they have never taken before.

Mr. Bader. I think we could add the word policy here and policies and we will underline that.

Recommend the establishment of a special committee of the CFI to review all foreign human intelligence collection policies. It would review and make recommendations with regard to the priorities and policies of U.S. clandestine human collection

operations and choices between overt and clandestine human collection.

Mr. Kirbow. And Mr. Chairman, without going back and belaboring one of the other recommendations, I think that the staff should do that in each instance where we may have given a task to a committee to do a great deal more detail because even on this domestic counter intelligence activities my earlier recommendation was that by statute the policies governing domestic counter-intelligence should be considered.

You don't want them to consider the day to day operation I don't believe.

Mr. Aaron. But I do think that we shouldn't lose sight of the fact that we are interested particularly in the latter case and I think in this case that you're interested in the program.

I mean you just don't want to say it will be the policy of the U.S. to do some or it would be the policy -- I mean you really want to have an opportunity in a management sense to look at the overall program -- is the program achieving what it's supposed to achieve, is the scale of the program here as opposed to there in the right balance to reflect our priorities?

In other words, I think that --

Mr. Miller. It's not a rubber stamp, you're saying.

Mr. Aaron. That's right and it isn't just to deal with

TOP SECRET

WARD & PAUL

words on paper. It tries to get at the problem of what are the programs and are they doing their job?

Mr. diGenova. Who do they make the recommendations to? The CFI?

Mr. Aaron. Yes, or the President.

Mr. Maxwell. One remark in connection with --

Mr. diGenova. Let's make that clear. It just says make recommendations.

Mr. Maxwell. In Bill's fix, to specify, I think it was intended that it's all human intelligence collection abroad.

Mr. Aaron. Yes, that's right.

All right, perhaps we can go on to the next recommendation. Now this is bracketed. I think it might be better first before we take up the bracket let's take up what is not bracketed and just indicate that this is in effect hortatory, if you will. It urges the oversight committee to examine the question of clandestine collection to ensure that it's really focused on things that need clandestine collection that are of high priority, not only the highest, but certainly deserve that kind of risk and effort and areas in which clandestine collection are the only means available so as to emphasize something of the extraordinary nature of espionage.

Now beyond that there's the recommendation that the clandestine services, like the military services and the foreign service, be subject to a manpower ceiling.

TOP SECRET

I think this would not suggest that that ceiling be a public figure but that the Congress establish a manpower ceiling for that, just as it has these other services that serve in the field of national security.

Now I know Charley has some reservations about that.

Mr. Kirbow. Yes. But to put it in the proper context and I didn't bring it up at that point, nor did Elliot, if you look at the bottom of page 32, we in our findings section discuss a point on the fact that we don't know whether the size of the clandestine service is the right size.

We also indicate that over the past decade the size has been reduced significantly, particularly in the field.

Then we come over here and recommend that there be a manpower ceiling for the clandestine services only of the CIA. Today there is a budget ceiling on the number of people in the CIA that is governed by the amount of money that they get and the amount of money that they put forward to support that kind complement.

I objected to kind of the dipping down process of going into a segment of an agency and limiting its manpower because if we had a crystal ball, we could do that very carefully and properly, I think. But I can't see into the future and two years from now we may need the largest clandestine service we've ever had because of the problems that would confront the nation and I think that since it is carefully controlled by the Congress

through its budget levels and manpower levels, let's let the agency decide how many people it takes to run a segment of its own organization.

Mr. Inderfurth. A very special segment, though.

Mr. Kirbow. Well, special only because we have concerned ourselves with the abuse aspects of it under the assassination type thing. Of more concern to us should be the fact that the analytical section out there probably needs strengthening instead of worrying about regulating the size of the clandestine service.

Mr. Inderfurth. Well, that comes up later as well.

Mr. Kirbow. Do you think that size in any way contributed to the plot against Castro or some of these other people?

Mr. Inderfurth. I think it has in covert action throughout Latin America.

Mr. Bader. Mr. Chairman, I would support Mr. Kirbow on this one.

My own view is unless you're going to go to the full extent of addressing the question of establishing manpower ceilings throughout the Central Intelligence Agency, to single out one directorate at this point doesn't really make much sense to me, though I understand the principle behind it.

End 3B begin 4A

Senator Huddleston. Well, I do too. I think we can make a flat statement that you could get too big, that there may be a point somewhere up there beyond which is a very dangerous

situation. But I don't think we have determined that any specific size has yet been shown to be so detrimental and we could say that there ought to be a specific level.

I think the rest of that paragraph certainly ought to be continuously examined.

Mr. diGenova. The second part of that paragraph really assumes that that kind of review would go on and if necessary, the committee could make a recommendation at the appropriate time.

Mr. Aaron. It proposes that kind of a review. The purpose of having a manpower ceiling as it exists, as I say in other agencies where one could argue that you would have the same problem, the military might have an emergency next week which would require an enormous expansion of military services.

Now the point of it is to give really, simply to give or suggest that the oversight committee put in its arsenal of controls over the clandestine activities that the CIA some handle on the clandestine services number because it makes a difference. I mean they could put their money elsewhere.

Senator Mathias. How about saying establish and annually adjust, or from time to time adjust?

Mr. Aaron. The point is not just to set a higher limit but rather to say, to have this tool, and even ask the Agency to tell us what that ceiling -- you know, they might well be

under their authorized strength.

Mr. Inderfurth. Another alternative is to say should consider establishing a manpower ceiling.

Mr. Kirbow. Could I make the point that oversight of any agency necessarily entails looking at the number of people it has every year because you have to determine how much money they've got to support and they have to come tell you that.

If we're going to have an oversight committee, that is one of the functions that it performs. We do it with our military services, but we don't tell them that we can't put them all over in, that they can't put all the Navy people in destroyers.

Senator Huddleston. That's right, but I don't think you can exactly equate clandestine operation with other types of agency operations.

I think there's a difference here in the potential impact. It's a secret operation.

Mr. Aaron. Should consider establishing?

Senator Huddleston. I think that it ought to follow the paragraph. Leave the paragraph as it was and say the committee should also consider the advisability of establishing a manpower ceiling.

Senator Mathias. Adjustable ceiling.

Mr. Kirbow. I don't really know what such a recommendation

does for this committee to recommend to another committee that maybe they ought to do something, but I guess it's all right.

Mr. Aaron. I'm afraid we do that quite a bit.

Mr. Miller. We're just laying out the agenda.

Mr. Kirbow. Which is not binding on them.

Mr. Miller. In the Government Operations Committee one of the provisions of the bill, as you know, is an agenda, and many of the items that are in that agenda are subsumed in this.

Mr. Kirbow. Doesn't it go to the make-up of the individual divisions? Overall size of the intelligence community is the way they recommended it, and I think that's a reasonable approach.

Mr. Aaron. Turning to the question of the Agency itself, number 23, this again is not in the category of statutory proposals but in the category of urging the Agency to ensure that the skills of intelligence collection are the primary criteria for advancement within the clandestine services.

Senator Mathias. Versus management?

Mr. Aaron. Versus covert operations.

Mr. Kirbow. Mr. Chairman, on this one I can conceive of nothing that would do more harm to either side of this question than to say to a man who wants to devote his life and make a career in the clandestine service that you can't get promoted on being good at what you're supposed to be doing. You get promoted on being good at this other aspect of it, and

TOP SECRET

WARD & PAUL

think it's just totally out of keeping with what you want. If you want a good clandestine operation, you want the best you can find, and I think that he should get the same amount of credit for being good at whatever he's assigned to as being in this other intelligence business.

Mr. Aaron. The intelligence business, of course, is their primary mission.

Mr. Kirbow. Not if he's a clandestine operator. That's his primary business and he doesn't have any choice over whether or not he gets assigned when he goes in out there as a junior executive to the clandestine side of the day to day operation.

Senator Huddleston. What does this address?

Mr. Aaron. This addresses the problem of the clandestine service which goes to the several things. Primarily it collects intelligence. But it is in the nature of, or at least the past history of the Agency, which Bill can speak more directly to than I, that the covert operations people get the better advancement. It's in part built into the system in that you can measure the effect of the covert action operation easier than this endless effort to recruit a good agent many times which will fall through through no fault of the agent himself.

Furthermore, covert action operatives simply come to higher level attention easier than somebody who's a good agent

handler but who is really operating off in a very secure and remote environment.

So in an effort to try to suggest that they make a real effort to compensate for what we have found in this area, this particular thing is designed to urge them to do their best to try to overcome that problem.

Now we wanted to put it in a way that was not pejorative and that did not exclude the advancement of good covert operators. If you want to keep covert operations, I agree with Charley, you have to have good ones and you've got to reward them.

I don't think that this particular recommendation which is to the Agency and not to statute does what perhaps Charley fears it would do. It simply urges that they give the proper weight to what for the clandestine services is their primary mission.

Mr. Bader. The problem of it is we're not after this really and perhaps it's a language problem. We're not trying to suggest here that the intelligence collectors in the career matters should be favored over the operator. What we were after really was that we have noticed over the years and in the record that the intelligence operator has tended to move along much faster.

What he has done, his projects are very quickly visible while intelligence collection can be something that runs over years and it's hard goin' in the trenches. And I think the

Mr. Kirbow. I'm sorry. I don't believe that that's the case. What I'm really saying is this. Over the years from about 1947 on through the '60s, clandestine operations were a way of life in the CIA. Whether it is in favor today or not is probably on the side of no, it's not in favor at the CIA because there are only 165 versus some 500 or 600.

Senator Huddleston. I really don't see that as being relevant.

As I see this it's not a question of whether we like clandestine operations or not. It's seems to me the question is whether or not those individuals who serve are getting undue

preferential treatment and advancement within the Agency.

Is that what we're trying to get to here?

Mr. Kirbow. They say it's within the clandestine services, that the covert operator gets more advancement within the clandestine services side of the house than the other people, and I don't think our record supports that.

It may be that you have found more of the directors being from the covert side of the house but that is not what the attack is here.

Senator Huddleston. Can't we say that within the clandestine services our inquiry indicates that those in the covert section have advanced in greater numbers more rapidly?

Mr. Bader. Yes. I think the record is clear on that within the clandestine services.

Senator Huddleston. And the Committee believes that the Agency ought to ensure that all employees, whatever side, be given the opportunity based on their actual skills.

Mr. Aaron. That's the thrust of what we're trying to express here.

Mr. Kirbow. Mr. Chairman, I would like to reserve for Senator Tower on this one because I don't think the record of the Committee supports that.

Mr. diGenova. How about if we said this -- the Central Intelligence should ensure that the skills of intelligence collection are given equal consideration as a criterion for

TOP SECRET

advancement within the clandestine services.

Ms. Culbreth. Then you get back in to what we struck out from the original, which was as opposed to covert action operations. We deleted that from the earlier thing to try to avoid --

Mr. diGenova. I'm trying to just paraphrase what the Senator just said, what they said was the thrust, which was that intelligence collection capabilities are put on an equal footing with operations.

Mr. Aaron. What I think is a better way to put the point, and it's along that same line, might be to simply say, to urge that the Agency ensure that the skills of intelligence collection are given importance in advancement within the clandestine services of that mission for the clandestine services, if you will.

In other words, the great bulk of the people in the clandestine services, as Charley pointed out, are in fact intelligence collectors. They are case officers for trying to acquire information, and I think that what we're trying to arrive at here is that it should be given an importance, that this skill should be given an importance and significance in proportion to the significance that the Agency accords to that particular task.

Senator Mathias. What skill are we trying to get at here? Are we getting at the fact that you get some stars who, becaus

of their clandestine skills get all the available promotions, most of them, that they get ahead and I think that that is a problem. You see it in the armed services all the time. I remember Commander Buckley who, because he was a big PT boat man, and he just happened to be called on to take MacArthur off Corrigedor, ended up an Admiral, and I won't comment further.

Now I think there is such a human response to courage and daring and unusual skill that it's going to be very hard to deflect that from having its natural outlet in recognition.

Mr. Aaron. As I say, a lot of the problem is in the nature of things and the recommendation goes to an effort to put us on record as trying to compensate for what I think you rightly say.

Covert action draws attention to the operator. Clandestine collection, you do not draw attention to yourself.

Mr. Kirbow. There is a more basic problem to this at the Agency. I did spend some considerable time in this business. The excellent people, the people who turn out to be excellent in the Agency and get the quick promotions are not necessarily promoted because they are covert operators alone.

Most of the very fine people that they have, or that they had in the early years wanted to be in that business because that's what being a spy was, and they will end up with a majority of the good people.

Why shouldn't they be promoted? That's exactly the

TOP SECRET

WARD & PAUL

decision.

Senator Huddleston. Well, there are too many elements here involved in who ought to be promoted. There are too many human elements and somebody has to make a decision.

I just don't know how we can advise them on that. I think I would strike that. I would favor taking it out.

Mr. Aaron. Okay. Number 24 goes to the question of the relationship between the domestic contact division and the directorate of operations, or what is otherwise known as the clandestine services.

In 1972, I believe it was, when Mr. Schlesinger went to the CIA, this directorate whose primary responsibility is for collecting overt intelligence but which has a support function for the clandestine collection or the clandestine recruitment of agents within the United States was then moved into the directorate of operations.

The Committee's own hearings and testimony on the subject indicated that a reasonably large portion of their activity and their contacts are used for the initial stages of trying to spot, assess, and get people close to foreign intelligence agent recruitment targets.

Now there are, one concern about that is that unlike the foreign resources division whose mission is clearly clandestir the domestic contact division approaches their people on an open basis, it says, ... I'm not a spy. I'm not doing any

TOP SECRET

saying. I am an overt open person. I belong to the CIA. I would like you to tell me about your travels or advise us on some subject or what have you on an open basis, and that this relationship is completely above board in every way.

And you don't have to worry that this relationship is going to be used for any covert purpose.

However, it turns out that some of those relationships are or do or are brought to evolve into support for clandestine activities in which information is gathered on people who might be helpful in all the ways and I think we had a pretty good attendance at that session when this was discussed.

So the question comes down to this -- this blurring of the line between an organization as to whether its mission really is overt or not in every respect, should this be a concern to the Committee? And if it is of concern to the Committee, should we take some steps to try to reinforce its overt character and separate it out from the clandestine services where it is now located and where at least a few of the people in the DCD have expressed some concern that they will now become populated with real clandestine operators and that they will really sort of become another arm of that organization.

Now Bill Bader would like to talk to this point. It formerly was part of the directorate of intelligence which is the more overt arm of the Agency to begin with and collected that information.

TOP SECRET

In other governments this same function is done. for example, in Britain it's done by the board of trade because a lot of the information is technical, economic, or scientific in nature, which is also true for the DCD as a matter of fact.

And so the question that is presented to the Committee is do we want to leave the DCD where it is in the Director of Clandestine Operations? Do we want to have the clandestine service, if you will. have a quasi-overt arm within the United States widely spread out throughout the United States? Would we want to confine the clandestine activities to the clandestine service and the overt activities to some overt organization, be that back in the directorate of intelligence in the Agency or moved out to the State Department or some other organization which does operate openly as a matter of course?

Mr. Inderfurth. What would that mean in terms of numbers? How large is the DCD?

Mr. Aaron. I believe it is about 150 or 200.

Mr. Bader. There are 38 offices.

Mr. Aaron. And they are about two or three man offices. A lot of the personnel in the DCD are in fact succunded from the military services or ERDA. You know there are different areas of the country that have different kinds, you know, or agriculture, for example, if they're interested in agricultural intelligence a lot of these people come out of

TOP SECRET

WARD PAUL

agriculture. I mean it's a funny kind of mixture of people.

The CIA sort of does this in part as a service of common concern to the intelligence community and in part at least heretofore it does the overt collection function as a service to its own analysts.

This was particularly in the early days when we had less access to information in the denied areas of the world. It was a very rich source of information for us. It still is quite a good and important and economical source, and it's a good program. The question is how much it should be involved in clandestine support and if you want to find a way to encourage it, to, if you will, emphasize its overt mission over its covert mission or do you want to put it back into some overt side of the Agency or the government?

Mr. Maxwell. I have some very mixed feelings about this recommendation and the problem might be described better by looking at the flow of information from the end point.

The FRD now is involved in the recruitment of agents for foreign intelligence gathering within the United States. A number of times they need, and I think they have indicated to the Committee that they need some help in determining whether they should go to an individual and say, can you introduce me to this potential agent of influence in a country, can you introduce me to the student without that blowing up in their faces?

TOP SECRET

The question then is how can they be provided with the information that they need to allow them to make a recruitment that the Committee may find is valuable.

If it is from the DCD, it has all the problems that David articulated, and I appreciate those problems. The question the Committee has to face is where they are going to get that information, whether it should be for the DCD, whether it's located in DDO from the DCD, whether it's located in the DDI or from the DCD, or located in the State Department or under State Department control.

My own sense of that is that the decision that was made by Director Schlesinger in moving it from the DDI to the DDO did raise the potential of compromising the overt character, but it also made the liaison which we find important more efficient and easier to manage and potentially easier to control if both elements are under the same set of guidelines and regulations which would govern the DDO as a whole as to who may be approached, who may be used operationally.

If it's put in another directorate or outside, I think there's a difficulty in that kind of control and I think it's also, it obviously raises the question of whether the FRD was going to get the information that it needed for a valuable function of recruiting foreigners while they're in the United States.

I think the Committee can go any number of ways but I

TOP SECRET

think that the end product has to be looked at in the recruitment of spies, and secondly you have to look at what kinds of assurances could be made in any branch of the government if overt collection is being done as to whether that information would be used by another branch of the government.

If DCD were entirely overt and a promise were made to Mr. Bader that this would never be used for an operational purpose or you would never be asked as a consenting adult to aid in an operational purpose, then the end production might well be that the FRD is going to be sending people out covertly within the United States to covertly obtain information to determine if they are going to make a covert approach to a foreign spy, and I think that I have real hesitation about, rather than the information being available from consenting individuals on an open basis.

Mr. Aaron. If I could add to that. I agree, I think the question is if you're going to allow the conduct of recruitments to take place and you're going to allow information to be collected on these people, somebody has to do it and so you're not going to avoid any of those questions by this.

The issue goes in part to whether the people who will initially begin developing that information will be people with every incentive to keep it within certain bounds or whether there will be incentives that work at cross purposes to that.

I think that [illegible] you have a situation in which the

TOP SECRET

DCD could legitimately have contact with academics and large numbers of people who otherwise, if our other recommendations in here are accepted and even some of the internal regulations of the CIA are written into law, people would be kind of off bounds for operational use.

Now the DCD, however, because it is overt, is allowed to deal with these people, and the question is, well, the incentives to be scrupulous in their activities, keeping them overt and not trying to use people sort of for operational support and so forth, the question is would those incentives be better outside the DDO or inside the DDO or would it make a difference.

The second point is, and this is a somewhat different point, the DCD is having an increasing problem, quite frankly, and we have had testimony from Mr. Nelson and others, he's having a problem because it is associated with the CIA.

Now people are reluctant to cooperate with them because of concern about being associated with the CIA. The fact that they actually do engage in operational support doesn't help that very much.

And so the question is if you really want the fullest exploitation of the foreign intelligence, open foreign intelligence potential of the American people who are willing to cooperate openly, shouldn't that be done by some organization which does not have this aura of clandestine activity.

TOP SECRET

associated with it?

That is somewhat separate but relevant.

Mr. Kirbow: Mr. Chairman, apparently they're not talking about doing it with any fewer people or any different people, but you're talking about calling it something else.

In discussing this with Mr. Nelson, under whom it comes now, and with Mr. Proctor, under whom it previously came, they do not distinguish any of the problems, that they are having any problems in maintaining contact with over 100,000 American citizens who are kind of returning travellers and that they are getting the type of information that these loyal citizens are willing to give to them.

These people advertize their address and probably put their telephone number in the public telephones in each of these 38 offices, and all you have to do is look it up and say that's a CIA function there.

It is probably as overt as anything they do except testify on the Hill, which has become very overt in the past year or two. But just to talk about moving it back into a place where they just moved it out of on the lack of some kind of record that is not working properly now or more properly there. I don't think we're in a position to decide that. To decide that you want to move it out of the CIA and into the Department of State, I think the record is totally void on that subject.

TOP SECRET

WARD & PAUL

I just hate to see us recommend taking away from one place and putting it some place else without a record.

Senator Hart. Can't we recommend that we put it back in intelligence and the oversight committee consider that after it's created and so on.

Senator Huddleston. Why was it taken out of intelligence?

Mr. Bader. It was a question of consolidation of collection in one directorate.

End 4A. b. 4B

You see, while the domestic contract service was under the DDI, it was a collection service. It was in an analytical branch and Schlesinger, as I understand it, felt that it was the tidy thing to do to put all collectors under the same --

Senator Huddleston. Overt and covert?

Mr. Bader. Yes. And I think the issues here have been very well articulated.

I had very little to add to them. I think it is an issue. I have a personal concern that we have not taken the responsible officials at any length on the record on this question of the relative advantages or disadvantages.

My own personal view with some experience is that it seems to me it would make a great deal of sense for this function to be under the DDI to emphasize and underline its overtness and that the individuals who are in this particular service or office then would flow naturally from the analytical side and it would be very different kinds of people as they tended

to be before 1971, 1972.

Senator Huddleston. Is there any chance that anybody would be denied the product of this investigation if we changed it?

Mr. Bader. One of the things we should bear in mind, Mr. Chairman, is that if you go down the road and talk about these various reforms or changes in the intelligence structure, that moving the DCI function and enhancing his powers and then perhaps eventually separating the Director of CIA from the DCI, that at this point it would seem logical for an overt collection side of an intelligence agency to be with the DCI.

But that is down the road as well and perhaps what we want to do with something like this is -- you don't understand that point?

Mr. Maxwell. No, I don't.

Mr. Kirbow. What he's really saying is that if you move all of this overt side out of the DCI, you leave the covert side out there without any of the support function, which this group furnishes to them.

Mr. Bader. Down the road when you have a DCI --

Mr. Maxwell. If you assume that the DCI is going to take the entire DDI --

Senator Huddleston. Could we have a situation where an agent might be both covert and overt?

Mr. Kirbow. These people out there are not agents. These are employees. And most of them, by the way, are former employees. They are retired CIA officers.

Senator Huddleston. They are not mixing the assignments?

Mr. Kirbow. No. They, for example, I don't mind putting this on the record.

We had a large international organization in the company I was with before I returned to the Senate. Before we departed we could get a briefing on the place where we were going to kind of safeguard against making defense mistakes, and when we came back, they came and had lunch with you and asked you to kind of reveal or when you were dealing with the director of whatever it was in Singapore, what was the situation? What was the atmosphere? What's going out there because you were in a business atmosphere and rubbed elbows and they came and met with you and did this. Or occasionally you would stop by the San Francisco office and you'd do this.

That's the business these people are in, principally. Isn't that correct?

Senator Huddleston. Mac, do you have any thoughts on this?

Senator Mathias. I don't think anyone has discussed option number 2 while I've been sitting here, and I haven't been sitting here consistently. But is there any value to cutting it out and sending it over to State?

TOP SECRET

Just to be the devil's advocate, one of the values that occurs to me is to bring the State Department in touch with reality.

Mr. Kirbow. Well you'll never get me to tell a member of the Department of State personal business that I was conducting for my company in Singapore because I don't think that it would be --

I'll put it personally. I don't think that I would have trusted them with the secrets of what my company's operations were versus an intelligence organization. Not an open organization like the Department of State.

Mr. Aaron. The information collected by the DCD is fully available to every agency of the government. It's not considered classified or secret or anything else.

Mr. Kirbow. They ask you a lot of questions.

Senator Hart. The principal argument, Mac, is that there's no record on this and for us just to haphazardly make this recommendation without our record --

The compromise I suggested was a recommended option 1 and that the new committee look at option 2 when it is in existence and has made a record.

Senator Huddleston I'm inclined to go with option 1. I have a question, it says the Committee recommends the permanent oversight committee remove --

How is this going to work?

TOP SECRET

WARD PAUL

Mr. Aaron. I just think that in drafting the charter -- actually you can just say you recommend by statute or you could say that the Committee recommends that it be removed or moved back, and you can leave it to the DCI to do it.

Senator Huddleston. Just recommend that it be done.

Mr. Kirbow. May I respectfully reserve on that?

Mr. Aaron. All right. Now 25, we're going to get some testimony tomorrow morning on 25 and 26 as to what they actually do and we will have that on the record.

And 27 will be moved up, as we have talked about it earlier. And 28, then, was the order of business, and that is the proposal that in fact we ought to consider a model rather like the British, which is that counter intelligence by the CIA and by -- I'm sorry the author of this is not here -- by the counter intelligence, by the CIA, and the FBI, be consolidated into one organization along the lines of MI 5 or 6. I can never keep them straight.

Mr. Inderfurth. Five. This would --

Senator Huddleston. Where would that agency be in the structure?

Mr. diGenova. This is the point I was getting at before that the domestic task force and John Elliff has some problems with these recommendations that I'm just spotlighting this now. He doesn't understand the advisability of this. He doesn't see why this a good reason.

TOP SECRET

Mr. Miller. That's because he hasn't heard the recommendations that this be done by others. It's just an idea to be considered.

Mr. Kirbow. He's read it. I reserve on this.

Mr. diGenova. I'm not sure that's --

Mr. Inderfurth. Well, the military intelligence services should be added to this FBI, CIA and military intelligence.

Mr. Aaron. If you're going to consolidate that function, it ought to be consolidated all the way around.

Mr. Miller. They're slightly different activities on the part of the military because they're involved in base protection.

Isn't that correct?

Mr. Snider. Well, that counter-espionage operation involves their own personnel world-wide.

Mr. Miller. But in connection with bases, that's their connection.

Mr. Snider. Not necessarily bases, but information, military information. As long as you are consolidating that function, I don't see why you shouldn't include the military services. It's just a small point.

Senator Hart. Mr. Chairman, I certainly favor the concept that if there's any one area where we saw even a little rogue elements, they were in the counter-intelligence areas. And I am, as you know, opposed to further compilation of

TOP SECRET

WARD PAUL

the hiding places for responsibility or accountability. But I think creation of a separate unit here and consolidation would enhance accountability rather than make it more difficult.

We have found out in our look at the Kennedy assassination and I think in a number of other instances, COINTELPRO and so on, there was duplication and overlap and abuse and poor performance and misperformance and about everything you can think of going on here between the FBI and the CIA and maybe even the military.

So I think we have to look at something and not just a mandate on counter-intelligence. I think this is a sound recommendation to make.

Mr. Miller. It doesn't have to be into a new agency. It may be a relationship that is less than an agency.

Mr. Aaron. Is it the concept here that this organization would conduct all the counter-intelligence activities abroad? I mean in other words, the counter-intelligence functions that every station has to, in effect, conduct, for example that establishes, perhaps puts an agent in a local security service to make sure that local security service is cooperating with us and not cooperating with the Soviets.

That is the counter-intelligence action. Is that something this organization would do as well, or would there be departmental counter-intelligence permitted?

Mr. Kirbow. If we're talking about duplicating in major

proportions, major aspects of the FBI because they use their agents for dual purposes -- if he isn't out here law enforcing on a Friday afternoon, then he's doing whatever else he's qualified to do in this field.

Mr. Miller. That's part of the reason perhaps that some of the abuses have occurred. The grey area becomes very murky indeed because of the dual nature of the agent's activities, whereas the pursuit of foreign enemies, and rather than having the hand-offs of the situation that we've had in the past, that consolidation might remove that problem and it might upon examination lead to clarification of role and remove the kinds of grey areas that existed in the past. But it's only a suggestion to look into more thoroughly. It's nothing more than that and I think it has merit to at least look into it thoroughly.

Mr. diGenova. That's a specific recommendation that the new oversight committee consider that question.

Mr. Kirbow. I was just reminded by my colleagues that that recommendation is rather innocuous. They can do anything or not do anything.

I do think here again, as we suggested earlier we should remove the words during the next year because if they do everything that we have recommended, they won't have time to go to lunch the way things are going. Why don't we say that the oversight committee should consider this? I think that

TOP SECRET

you're now directing another committee to do many things within a short perid of time and they may have more important recommendations that they consider too.

Mr. Aaron. Now --

Senator Huddleston. I would like for our recommendations to be more specific, but I recognize that there are times when we can't.

The natural question is going to be to us as members what about recommending this study? Are you for it? Do you recommend it's a good thing or a bad thing? And our only response can be, well, we don't know. We just think we ought to look at it.

Mr. Aaron. Well, I think in some cases we're really talking about some ideas that deserve a measure of legitimacy to be seriously considered. I mean, for example, we were talking earlier about the DCI being separated from the Agency. I think the way the Committee came out it was essentially to give legitimacy to the idea and its practicality or wisdom one might well question and look at further with the oversight committee.

I think that sort of falls in that same category.

Senator Huddleston. Would it help any to say that because of the nature of this kind of activity or the fact that it does lend itself to specific abuses, that they ought to do this?

TOP SECRET

Mr. Kirbow. Senator, the individuals, we don't have any great big record that there were rogue agents out there in the FBI doing this. There were rogue policies down at the headquarter

Now if you have the same kind of rogue policy in a new agency, you'll have the same end result.

So it doesn't accomplish anything for us to do this and point at the individuals because it was a principal.

Senator Huddleston. I didn't specify individuals. I just said it has happened and it's the area where it is susceptible.

Mr. Kirbow. Certainly the potential for abuse is great in this area and it should be studied carefully and probably urgently by the Subcommittee. I mean the new oversight committee.

Senator Hart. It wasn't potential, it was actual. I'd like to see the committee recommend strongly that they go in this direction on the basis of our 13 months of looking at the damn thing.

I don't know how long you have to study some problem before you do something about it.

Senator Huddleston. Well, I'm content to leave it as it is, taking out during the next year.

Ms. Culbreth. Did we add military services?

Mr. Miller. That's a good point.

Mr. Kirbow. All counter intelligence functions and leas

out the agencies individually. Leave out the FBI and the CIA.

Mr. Miller. I think naming them is a good idea.

Senator Huddleston. I guess this gets into the domestic task force also.

Mr. Aaron. Yes. The Committee will want to look at that.

Now if we go on to our next set of recommendations for covert action, we can be halfway through the report. That would be moving to page 48, where we will take up a number of recommendations related to covert action and paramilitary activities, which relate to what the stated purpose in law of these activities ought to be, what restrictions might be placed upon them, what review and accountability procedures might apply to them and what kind of controls from the Congress's standpoint might be placed on them from the standpoint of either the budget or some other aspects, particularly the paramilitary activities.

If we start with the first one on page 48 --

Senator Mathias. Mr. Chairman, don't you think we ought to skim lightly. Much as we are all desirous to get to that halfway mark, I think we had better look at the text very lightly beginning on page 42. It wouldn't take very long to do that.

(Pause)

Senator Mathias. Any problem with the Angola reference? What kind of controversy are we going to raise?

Do we have a record to support the

Indonesian reference?

Mr. Bader. Yes, we have a major study to support that. In fact, one of our biggest studies.

Mr. diGenova. That raises the issue, if I might say, of a question that I just want to know as a matter of information.

Have we resolved the question of whether or not the Agency agrees to the release of a second covert action paper when there was an agreement apparently reached before that there would be only one covert action paper and that was on Chile?

What's the status of negotiations now to release the Indonesia paper? The one you're talking about.

Wasn't there another detailed paper on a covert action paper that we were considering?

Mr. Aaron. There was a paramilitary paper on Laos which the Agency would like us to release and they are now reviewing with the view toward permitting us to do so.

Senator Mathias. What about the Indonesian?

Mr. Miller. That's classified.

Mr. Kirbow. And the one on Greece?

Mr. Miller. That's classified, too.

Mr. Kirbow. There is a classified record that will support this comment. There will not be a public record, but if you read this there, you could go look at it in our other report.

Senator Huddleston. Could we make some kind of a footnote

Mr. Bader. Senator, on the result of the Indonesian operation, the '57 operation is widely known but it was a failure. We went to support the Sumatra rebels and they failed and so did we.

This was when Pope was shot down.

Senator Huddleston. Back on page 44, this term sheep dip, is that sufficient?

Mr. Aaron. We had a long discussion of that, as a matter of fact. We'll be guided by the Committee.

Senator Huddleston. Sterilized equipment, what does that mean?

Mr. Aaron. That's equipment whose origin cannot be traced.

Senator Mathias. Whoever is the editor, I hope that some of these howevers that are used to begin sentences with will be put following the first verb instead of at the beginning of the sentence.

At the top of page 48 I think you should make that a little stronger, effective Congressional oversight, too, if they have the guts to use it. I mean if they don't use it, it isn't worth anything.

Mr. diGenova. Senator, would you move to put that language in there?

Senator Mathias. Well, I'm serious about it, although

TOP SECRET

WARD & PAUL

I would like to be a little bit more liberty.

Mr. Aaron. If there is the will to exercise it.

Senator Mathias. Because you know, you head into the Executive Branch and there's an emotional appeal with the flag waving and the Star Spangled Banner being played on the Capitol steps and all that kind of thing. It takes some courage, and I don't think we ought to downplay the fact that, just the mere fact that you hold the power of the purse, that it makes it an easy power to exercise.

Senator Huddleston. All right, we're ready for recommendation number 1 on page 48.

Mr. Aaron. I'm going to ask Bill Bader to speak to these recommendations. He has done the major work on this. I'll just simply make one point with regard to the first one, and that is that in giving the Agency a charter and writing down some of the things that it is to do, including the conduct of covert operations, the concept would be to use the Title I device of trying to also set forth some of the purposes of these missions that the Agency would be given and in that context the general injunctions of --

The first recommenation would arise to be supplemented by the specifics that follow.

Mr. Bader. I trust the language is clear here. It is intended in the first instance to underline the view of the Committee that the use of covert action should be an exceptional

act and not a routine procedure. It is also intended to underline the Committee position that covert action again in the exceptional nature should be used only when other means will not do.

And then it goes on to talk about that there should be procedures for seeing that there is both careful and thoughtful and thorough consideration of the general policies governing covert action and that these procedures include participation of policy makers at the highest level and be marked by accountability.

What we're intending to do here is to underline these various points, the exceptional nature, full accountability, thorough, systematic review.

Mr. Inderfurth. The first is legislation authorizing the conduct of covert actions makes clear. That seems to be sort of present legislation. There is none.

Mr. Aaron. It should say, recommendation 1, that the legislation authorizing the conduct of covert actions make clear that its purpose is to respond.

Mr. Maxwell. The problem is there isn't following from the charter section in the first set of recommendations the recommendation other than the very early one about NSC that a charter for the CIA authorizing the following functions should be drawn and that because there is not that recommendation in this section, I think Rick's comment is appropriate.

Mr. Inderfurth. Maybe just add a line that that charter should state that and then go into this.

Mr. Kirbow. Are you recommending a revision of the 1947 Act to change the charter of the CIA or to make it clearer or more specific, or do you want to simply indicate here that the Committee recommends that by statute, covert operations or covert action be authorized?

Mr. Inderfurth. I thin it should all be in one piece in the omnibus legislation.

Mr. Aaron. Yes. I think that in fact in the beginning and also in the section it simply says that the CIA is authorized to conduct, if you will, espionage and that it also ought to authorize. It also suggests that they're authorized to conduct a certain amount of counter-intelligence.

Mr. Bader. We can go now to page 49 where we have attempted here to lay out for the Subcommittee's consideration.

Mr. Maxwell. Just one comment on 48. The first clause after the semicolon, there may be a more artful way of saying that legislation should make sure that procedures be developed within the Executive Branch.

Is that designed to do that by legislation or is that a recommendation? We made some recommendations by statute to set up a mechanism, and there may be a more artful way of saying that.

Mr. Bader. Perhaps we can just go from that procedures

TOP SECRET

be developed within the Executive Branch.

Mr. Miller. You can do this in various ways by requirement of reporting to the Congress.

Mr. Bader. On page 49, top of the page, we come to the hard problems here, and this section is addressed to the question of specific prohibitions on varieties of covert action. It notes that the Committee has after its investigation of alleged assassination attempts has recommended a statute to forbid such activities.

What we put before the Committee for consideration is a staff list of other possible recommendations. You can see the first bracketed one where there is some dispute as to whether that should be so included is all political assassinations That is to move from foreign leaders to all political assassinations, and we can come back to that. The others you can see are clear, and we would welcome comment.

Senator Mathias. What about religious assassiations?

Mr. Bader. That seems to be part of the problem, Senator, with using all political assassinations. It becomes a bit hard at that stage to be limited.

Mr. Davis. The Executive Order has all political assassinations. Theyare ahead of us.

Senator Huddleston. In the bill that we have prepared and introduced what does it say?

Mr. Bader. It does note that the Executive Order does

TOP SECRET

take us a step further.

Senator Huddleston. No, we introduced an anti-assassination bill, didn't we?

Mr. Bader. Yes. That spoke to foreign leaders.

Mr. Maxwell. The bill itself, I think, would have covered foreign individuals as well as, because leadership was so broadly defined.

Part of the problem in the recommendation that came out at the staff level was that anything that we sa[illegible] about non-foreign leaders or domestic assassinations or the like implied that the Committee had investigated allegations about that and might imply that some credence should be given to charges that the Agency had been involved in attempts to assassinate people in the United States, and that was the problem of trying to word some prohibition that went beyond the bill that has already been introduced by the Senators.

Mr. Kirbow. Or of some lesser military-type individual in a foreign country. You know, assassinating a sergeant is pretty bad as far as he is concerned but it would not necessarily be political.

Senator Huddleston. What about peace time? Should that be in there?

Mr. Kirbow. I think our bill distinguished between peace time and war time, Mr. Chairman.

End 48 [illegible]

I question whether or not having done that before, that

TOP SECRET

[illegible] PAUL

political assassinations need to be discussed further as a prohibition at all.

Mr. Maxwell. Perhaps if the Senators think it is desirable to say something, the staff could get language which would not imply in any way that the Committee has found credible evidence that the CIA was engaged in activities beyond this, but which would reflect their desire not to; their desire to make clear that the CIA could not do that.

Mr. Kirbow. It's a moral finding that it isn't necessarily based on wrongdoing in the past.

Senator Mathias. It's repetitive but that's all right for emphasis.

Mr. Kirbow. We could work on the language and show it to you again.

Senator Mathias. What about the second one?

Mr. Aaron. I'm not quite clear on this first one. We will draft some language that makes clear that we did not find any evidence of anything other than what we've found?

Mr. Kirbow. That we didn't find any evidence that would indicate that they had engaged in these other types of assassination activities but that we would prohibit it anyway, other than political leaders. In that, though, we considered that major or colonel over in one of, in the health alteration committee thing. We considered that. We can make this clear and show you the additional languages because I think that the

was concern that it not indicate that we had found some evidence that we had just not revealed.

Mr. Bader. Perhaps it would be helpful, Senator, but at the same time the Administration has come forward with language of all political assassinations, which seems to me would indicate that it's not a question of a finding.

Senator Huddleston. We ought to recommend passage of the bill that we have submitted, if nothing else.

Mr. Kirbow. And continue to support that legislation. I think you could just add right on to this. We recommended it then and the Committee continues to support enactment of such legislation.

Mr. Aaron. Number 2 begins the Committee has already recommended following its investigation of alleged assassination attempts, a statute to forbid such activities. The Committee continues to endorse that.

Mr. Maxwell. It could say the Committee also endorses or recommends that by statute the present Executive Order in regard to permitting any political assassination be enacted in peace time.

Senator Huddleston. What about democratically elected governments?

Senator Mathias. Why don't we do both? Why don't we say the Committee reiterates its support of that position and the Presidential directive? They may not be exactly parallel, but

TOP SECRET

WARD PAUL

we support both.

Mr. Aaron. Would that include supporting the Executive Order provision being in the law or just supporting?

Senator Mathias. And the Presidential -- why don't we be ambiguous?

Mr. Kirbow. We endorse the concept.

Mr. Davis. If they're not different.

Mr. diGenova. There is a recommendation here that other types of covert action which should be banned, and since we're talking about a statute which we have submitted which bans it we would then ban by statute, recommend banning by statute all political assassinations which would enlarge the President's Executive Order into a law and then the rest of these just assuming for the sake of argument that the Committee wanted to do that, it would be a recommendation for legislation which would ban all peacetime political assassinations.

Mr. Kirbow. The staff could work on that language a little and get it back to you.

I think we know what you want to do here, don't you, David?

Mr. Aaron. Yes. I think we can make a fix, just make the point that the political assassinations point is putting in law what the Executive Order is as proposed by the Executive Order or as provided by the Executive Order.

Senator Huddleston. All right. It's then to overthrow

TOP SECRET

WARD & PAUL

democratically elected governments.

Mr. Inderfurth. I might mention that Cyrus Vance went beyond this. He said all interference in the electoral processes of a country should be banned, which goes beyond this.

Senator Mathias. Perhaps that was some subliminal influence on me, but I've written down efforts to subvert a valid electoral process.

It seems to me that that is better because when you talk about overthrowing a democratically elected government, God knows what that is. And I don't know that you're really going to know what a valid electoral process is. The Republic of Venice, where they have a very limited electorate, elected those. But nonetheless, it was their constitution and it wasn't very democratic. But whatever it is, and this would be in line with George Cannon's testimony also.

We finally have acknowledged that the Soviet Union has a legislature of sorts and we acknowledge their electoral process although we don't think much of it.

Ms. Culbreth. Would your use of the term subvert, would you intend to include within that preventing the CIA from any kind of political or propaganda in connection with the elections in another country or any kind of support to one of the candidates that we might think was a better canddidate?

Mr. Kirbow. Well, you said results of --

Ms. Culbreth. But could you not subvert the results by

influencing the carrying out of the election?

Senator Huddleston. Well, we subvert our own elections every time we run.

Senator Mathias. The original suggestion was efforts to overthrow democratically elected governments. I mean both of these -- efforts to subvert the results of a valid electoral process.

Senator Huddleston. I think that's all right.

Mr. Inderfurth. In a sense what is a democratically elected government?

Moynihan says that in the U.N. there are 24, so in a sense we could actually list them.

Mr. diGenova. What about, what is a valid electoral process? Whatever it is in each country? I mean the communists have one party and that's a valid electoral process in that country.

Senator Mathias. This would be Cannon's advice.

Senator Huddleston. Well, I think we have to recognize the right of another country to have their electoral process and it would be valid if someone in that country were attempting to circumvent their established constitutional processes.

Mr. Maxwell. The qualifier in the Senator's proposal was democratic, so that at least in some way it restricts the notion of a dictator.

Senator Huddleston. Self-determination maybe should be

TOP SECRET

in there.

Mr. Miller. What cases would this prohibit? In our actions in the past it would prohibit Chile, Iran --

Mr. Kirbow. That stage of the Chile operation.

Mr. Miller. Guatemala.

Senator Huddleston. It would not prohibit Angola.

Mr. Aaron. It would prohibit some things that transpired in Laos.

Mr. Miller. It would prohibit the actions in Italy, wouldn't it, and France?

Senator Huddleston. It depends on the term subversion. We were just assisting one side.

Mr. Kirbow. Assisting the head of an election during the election process does not appear to be the intent of the Committee.

Mr. Aaron. I wouldn't think that what is going on in Portugal insofar as we know that that is would come under this prohibition.

Mr. Miller. So it would really affect the cases like Iran, Guatemala, and Chile.

Mr. Aaron. And Indonesia.

Senator Huddleston. Cuba?

Mr. Aaron. No.

Senator Huddleston. I think you'll might [illegible] on that a little bit, but I think that's pretty close.

TOP SECRET

Mr. Inderfurth. But just to be a devil's advocate for a moment, we don't want to insert then, using your language, Senator, the efforts to influence or subvert the results of a valid electoral process?

Senator Mathias. That may be too short a leash.

Mr. Inderfurth. But I think that's a question the Committee has to address. It would be a very short leash.

Senator Huddleston. Well, there are different ways to influence, and there may be a proper way to influence.

Mr. Inderfurth. If there were a proper, then perhaps one could define the improper way, influencing by passing money, covert propaganda, and that type of thing.

Mr. Kirbow. If the Committee's intention is after the person is elected and you don't want to prevent that kind of person being put into office by any means, then you do it here.

If you do not intend as a committee to preclude using the press or using other things to influence the outcome of the election, then we should be solid on that and stay out of that area. But it's up to the committee to decide.

Mr. Bader. This language speaks to subverting the results, not influencing the outcome.

Mr. Kirbow. And he says that was his intent.

Senator Huddleston. This does not preclude us from getting involved as we did in Italy.

Mr. Bader. Or in Portugal?

Senator Huddleston. That's not a subversion of the process, that's an assistance.

Senator Mathias. That's participation in the process.

Mr. Inderfurth. What about after an election but prior to the formation of a coalition government?

Senator Mathias. I would think that would be subverting, if you get in there and say, well, we are worried about who these people have elected.

I didn't know it was General Haig until this afternoon but I was aware that some American official had made a threat to Mitterand that he would be in trouble if he were elected Prime Minister and attempted to bring some radical leftists into the French Cabinet.

Now it seems to me that that is a threat to subvert the French electoral process and if in fact we carried out that threat I think that that would be prohibited by this language.

Mr. Aaron. I take it the word subvert goes to covert activities. In other words, if General Haig said that privately but didn't mean it in terms of covert action, he just said the United States government will --

Senator Mathias. I think the President of the United States or the Secretary of State or the Secretary of Defense might very well stand up in front of the television cameras and might say, look, if you put a communist in the French Cabinet

TOP SECRET

and under the parliamentary system you give him access to NATO's secrets, then there's going to be hell to pay and we're telling you right now.

I don't think that's prohibited.

But if we shadow him around and catch him in some compromising personal position and use the photographs to blackmail him, or anything of that sort --

Mr. Bader. That's a covert action project.

Senator Huddleston. There's no question that this whole matter of internal intervention in another country --

Mr. Kirbow. Senator, whatever you say here is going to be one of the highest considerations given by the Full Committee.

Senator Huddleston. I feel there ought to be some restrictions and constraint on our interference in the internal operation of the government.

Mr. Aaron. The next one, support for his beliefs or other internal security -- other security groups which engage in torture.

Senator Huddleston. Don't we have some legislation to that effect?

Mr. Aaron. There are amendments regarding foreign aid. Now this is open foreign aid. We're talking about covert assistance programs.

Mr. diGenova. This doesn't make sense to me.

Mr. Kirbow. Which engage in torture.

Senator Mathias. Can I make a semantic suggestion here that we try to bring this in line with the language in the Constitution, cruel and unusual punishment, because I think this really reflects, if it's going to mean anything, we ought to be reflecting our national ethic in both of these, both in subverting the results of a valid electoral process--

Senator Huddleston. Except you get into the question of capital punishment.

Mr. Maxwell. There's another problem and that is one of the things that the torture is engaged in is before a person has been judged to be guilty of a crime, someone who is being tortured in an interrogation, that person would not be subject to cruel and unusual punishment but the systematic violation of human rights or some other --

Senator Mathias. That's a phrase, though, with which Americans have been familiar since 1787, and it seems to me it has some value.

Senator Hart. The problem is we don't give serious thought to the way we treat prisoners in this country.

Senator Mathias. Yes, I think that's a problem. I think that's a problem in this whole thing.

Someone once said at the time that the Italian payments were exposed, you know, the Russians do this all the time and nobody blinks at it. And of course the difference is we go

around and preaching all over the world about our high ethical standards and then when we are shown that we don't live up to our own standards, that's what brings us the retribution.

But I still think that we ought to notwithstanding that this is an opportunity for some linkage with the Constitution. But I don't press the point. I just offer it.

Senator Huddleston. Well, I think this is something we should all give some thought to in the next few hours.

Mr. Kirbow. If we are going to do that, may I suggest that here we talk about support for police or internal security forces.

The remainder of that sentence shouldn't we apply it so that it is the policy of the country involved? Otherwise you're talking about aid in a covert manner governed by maybe an inadvertent, without authority type series of exposures of torture and whatnot, and you cut off the aid to a country.

Mr. Aaron. Can I speak to that point?

I think that Charley raises an interesting example and we have sort of that kind of situation today in Brazil where it is difficult to ascertain whether it is the policy of the government or whether the internal security forces which are very fragmented among the military and the states and what have you, whether these internal security forces and police are just on their own

Mr. diGenova. Should it matter?

Mr. Aaron. I think this is the question. It goes to the point not of assistance to the government in general or even covertly, but assistance to these particular forces, and that I think does narrow it down to the problem.

Senator Huddleston. What kind of support do we give the security forces?

Mr. Kirbow. Training.

Mr. Aaron. We have in the past, we can give them technical, training, electronic devices.

Mr. Kirbow. A whole spectrum except for U.S. military support.

Mr. diGenova. Some of the proprietaries were used for exactly that purpose, to provide training and secure procurement and sale and loan of devices which ultimately found their way into the hands of foreign torturers.

We certainly don't deprive the Agency of any legitimate source of intelligence because they themselves claim that they have never engaged in this activity knowingly and don't want to.

They say they don't want anything to do with this type of activity and they say they don't want to be involved with internal police forces that conduct this type of activity.

They have said recently that they have discontinued those sorts of liaisons, so to prohibit them by banning it seems to me to say fine, we agree with you and we will do it.

Mr. Aaron. What occurs to me is that it would be helpful to have a finding on this point.

Mr. diGenova. That's the next issue I was going to raise. We don't write anything about this any place in the report.

Senator Huddleston. Does the Agency have a directive to that effect that they have discontinued or are discontinuing that we can refer to and say we approve of it?

Mr. Inderfurth. As well as in the Chile covert action study there is discussion of liaison with the current Chilean internal security forces and that the CIA was saying, well, we want to talk to them but we don't want to be involved in what they're doing and we want to try to stop them from their practices of torture and the rest.

So I mean that's something we can look to as a basis for our findings.

Mr. diGenova. There's also a parallel with the drug thing.

Mr. Aaron. Senator, shall we try to see if we can come back with some language that tries to work in the Constitutional point? I must say I personally have a little difficulty figuring out how you turn this around to try to apply to what the police do?

Senator Mathias. Let's think about it.

Senator Huddleston. Let's get back at 7:30. That's a

whole two hours and a half.

(Whereupon, at 5:00 p.m., the hearing in the above mentioned matter was recessed, to reconvene at 7:30 o'clock p.m. of the same day.)